

EJECTMENT SUIT NO. 305 OF 2024
C. N. R. NO. WBPS01- 000616 - 2025
Before Smt. A. Bhattacharya, Ld. Judge, 5th Bench.

ORDER NO. 16 DATED 25.09.2025

Both parties file hazira.

Today is fixed for hearing of the petition under Or.6 R.17 read with Sec.151 of C.P.C. filed by the plaintiffs on 22.07.2025.

Ld. Advocates for both sides are present.

The record is taken up for hearing of the petition under Or.6 R.17 read with Sec.151 of C.P.C. filed by the plaintiffs by filing which it is stated by the plaintiffs that the plaintiffs have filed the instant suit against the defendants for eviction and delivery of khas possession of the suit property on the grounds stated therein. During pendency of the suit, plaintiff no.1 namely Dr. Rabindra Nath Bhar had passed away intestate on 02.07.2025 leaving behind his wife, his only son and only daughter being Plaintiff nos.1(a) to 1(c) and the application for substitution of the said deceased plaintiff is pending consideration. During pendency of the instant suit, son of the deceased plaintiff no.1 namely Sri Santanu Bhar, present plaintiff no.1(b) has superannuated from his service w.e.f. 31.12.2024 but since the present plaint was placed before this Court prior to his retirement from the service, the said fact could not be incorporated in the plaint. To bring the changes in the reasonable requirements of the suit property due to the death of the original Plaintiff no.1 and the retirement of Plaintiff no.1(b), present plaint is required to be amended. The amendment sought for are formal in nature and if allowed shall not change the nature and character of the suit nor shall cause any prejudice to the defendants and as such, prayed for amendment of plaint of the instant suit as per schedule of amendment as mentioned in the instant petition.

Though no written objection is filed by the defendant but it is submitted by the Id. Advocate for the defendant that the petition filed by the plaintiff praying for amendment of the plaint is nothing but an effort to fish out evidence and as such, prays for rejection of the instant petition.

Perused the petition and the materials on record.

Heard Id. Advocates for both sides.

Considering the petition, materials on record and the submission of Id. Advocates for both sides, I am of opinion that the amendment sought for by the plaintiffs is formal in nature and if the same is allowed, the same will not change the nature and character of the suit and will not prejudice either parties to this suit and as such, the amendment should be allowed.

ORDER NO. 16 contd.

Hence, it is

ORDERED

that the petition under Or.6 R.17 read with Sec.151 of C.P.C. filed by the Plaintiffs is allowed on contest but without any cost.

Amend the plaint accordingly as mentioned in the schedule to the petition dated 22.07.2025.

Plaintiffs are directed to file amended copy of Plaint within 14 days from the date of this order after service of copy of the same upon the defendant.

Defendant is at liberty to file additional written statement, if any.

Fix 21.11.2025 for filing amended copy of plaint and filing additional Written Statement by the defendant, if any, and submission of Commission Report.

Dictated and corrected by me,

JUDGE

JUDGE
[5TH BENCH]

Later, after passing of the above order, Plaintiffs file amended copy of plaint after service of copy of the same upon the other side. Let the same be kept with the record.

To date for filing additional Written Statement by the defendant, if any, and submission of Commission Report.

Dictated and corrected by me,

JUDGE

JUDGE
[5TH BENCH]