

Ej. Suit No. 327 of 2019
CIS No. WBPS01-000851-2019

Order No. 40
10.06.2025

Today is fixed for passing order in respect of the petition under Order 6 Rule-17 of the CPC filed by the defendant dated 20.02.2025.

Both sides filed their respective haziras.

Now record is taken up for passing order in respect of the petition under Order 6 Rule-17 of the CPC.

This application has been filed by the defendant submitting that during the pendency of the suit and after filing of the written statement, some new events occurred which are relevant for the proper adjudication of the suit thus vide this amendment intends to incorporate those facts in his written statement.

The plaintiff, on the other hand, objected such prayer of the defendant and submitted that the facts which the defendant intends to incorporate in the written statement was well within his knowledge and the defendant cross-examined the PW-1 extensively on those points and since the defendant could not show any due diligence for not being able to file the instant application at the earliest, he prayed that the petition be rejected with cost.

Under Order – 6, Rule-17 of the CPC amendment to pleadings can be allowed at any stage to enable the Court to determine the real questions in controversy between the parties, but after the commencement of trial, it is permitted only in exceptional circumstances where the party could not have raised the matter earlier despite due diligence.

Having heard, perused and considered the submissions of the respective parties and the case record, it appears that the defendant intends to incorporate some new facts relating to acquiring of subsequent possession by the plaintiff at the suit building. It is true that the trial has already commenced but the above alleged facts are the subsequent events which were not within the knowledge of the defendant at the time of the submitting the written statement. It is the well settled principle of law that in a suit for eviction on the ground of reasonable requirement the landlord, in order to succeed has to prove that the suit premises is reasonably required for the use and occupation of the plaintiff and his family members and also that the plaintiff is not in possession of the alternative accommodation elsewhere. The defendant vide this amendment seeks to bring on record the alternative accommodation available to the plaintiff in the suit building and the said alleged fact is necessary for the purpose of deciding the dispute between the parties in the instant suit.

In view of the above, the petition filed by the defendant Under Order-6, Rule-17 of CPC is hereby allowed on contest.

The defendant to file the written statement on the next day.

Fixing **08.07.2025** for filing amended written statement.

Dictated and corrected by me:

Judge

Smt. Gladys Bomjan
(J.O. Code: 01039)
Judge, 3rd Bench
Presidency Small Cause Court,
Calcutta