

**EJECTMENT SUIT NO. : 371 OF 2018**  
**(CNR No. WBPS01-001122-2018)**  
**(JO CODE No. WB01229)**

Order no. - 47  
Dt. 08.02.2024

Today is fixed for hearing of the petition under Order 6 Rule 17 of CPC read with Section 151 of the CPC dated 23.06.2023 filed by the plaintiffs.

Both sides file hazira.

Defendant files written objection in respect of the petition dated 23.06.2023. Copy served.

It appears from the case record that on previous occasion, plaintiffs have filed petition under Order 6 Rule 17 of CPC read with Section 151 of the CPC dated 07.02.2023 which was not disposed off.

Accordingly, the case record is taken up for hearing of the petition dated 07.02.2023 under Order 6 Rule 17 of CPC read with Section 151 of the CPC.

Heard Ld. Advocate for the plaintiffs who submitted that the proposed amendment as sought for amendment on the ground of reasonable requirement which was not pleaded at the time of filing of the plaint and the plaintiffs have reasonably required the suit premises for their own use and occupation and such facts need to be incorporated in the plaint by way of amendment otherwise, the plaintiffs will suffer much and the the proposed amendment are very much required for proper decision of this case and the same do not change the nature and character of the suit and hence prayed for passing necessary order in favour of the plaintiffs.

Heard Ld. Advocate for the defendant who after filing written objection submitted that the instant suit was fixed for peremptory hearing and the plaintiffs filed affidavit-in-chief and P.W-1 was examined in part and his cross-examination was deferred and now the plaintiffs want to incorporate the ground of reasonable requirement which was never been pleaded in the plaint or at the time of adducing evidence and the amendment as sought for shall not be allowed as the trial of the suit has been commenced and the plaintiffs did not show any ground for delay of filing the amendment application and as such the same should be rejected at once.

Considered. Perused the instant petition and other materials on record.

On perusal of the same, it appears that the amendment as sought for by the plaintiffs has not been mentioned in the original plaint at the time of filing of the suit and also at the time of evidence and the plaintiffs want to incorporate another ground of reasonable requirement which is required for proper adjudication of this case and the proposed amendment will not change the nature and character of the suit and the defendant shall get an opportunity to file additional W. S., if any.

Considering the same, the prayer of the plaintiffs should be allowed for just decision of the case.

Hence, it is

**ORDERED**

that the petition dated 07.02.2023 under Order 6 Rule 17 of CPC read with Section 151 of the CPC filed by the plaintiffs is hereby allowed on contest.

Plaintiffs are hereby directed to file amended plaint.

Defendants are at liberty to file additional W.S., if any.

Now the case record is taken up the petition under Order 6 Rule 17 of CPC read with Section 151 of the CPC dated 23.06.2023 filed by the plaintiffs.

Heard Ld. Advocate for the plaintiffs who submitted that during pendency of the suit, the defendant and her husband acquired a property by way of purchased and the plaintiffs want to incorporate such facts by way of amendment of plaint and the said amendment is required for proper decision of this case and hence prayed for passing necessary order.

Heard Ld. Advocate for the defendant who after filing written objection submitted that the amendment as sought for inclusion another ground as mentioned in the schedule of the proposed amendment and in the body of the original plaint no such whisper and the plaintiffs are trying to include grounds without any justified reasons and the amendment application has been made after commencement of trial and the same cannot be allowed and hence, prayed for rejection of the same.

Considered. Perused the instant petition and other materials on record.

On perusal of the same, it appears that the plaintiffs have stated that the defendant and her husband have purchased a property and in order to substantiate their allegation, have produced certified copy of Deed no. 2714 of 2005 where from it appears that the name of the present defendant is appeared as purchaser and the

plaintiffs want to incorporate such facts by way of amendment and it does not appear that the defendant has made denial of the existence of the said Deed.

Considering the above made observations, I am of considered view that the amendment as sought for by the plaintiffs is required for proper adjudication of this case.

Hence, it is

**ORDERED**

that the petition dated 23.06.2023 under Order 6 Rule 17 of CPC read with Section 151 of the CPC filed by the plaintiffs is hereby allowed on contest.

Plaintiffs are hereby directed to file amended plaint.

Defendants are at liberty to file additional W.S., if any.

Fix 11.04.2024 for filing amended plaint by the plaintiffs, additional W/S by the defendant, if any, in the meantime.

**[ Dictated and corrected by me ]**

Sd/-

(Manabendra Nath Ghosh)  
Judge, Bench – II,  
Presidency Small Cause Court,  
Calcutta.

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Judge, Bench – II,  
Presidency Small Cause Court,  
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