

Title Appeal 26 of 2014(CIS-1575 of 2014)

Order No. 67 dated 12.03.2025

Today is the date fixed for hearing petition.

Both parties file hazira.

Heard Ld. Advocates for both sides.

Perused the petition, objection as well as case record. Considered.

This is an application u/Or. 6 rule 17 read with Order 8 rule 9 read with section 151 CPC filed by the respondent.

Ld. Advocate for the respondent has submitted that there are some mistakes due to oversight in the additional written statement filed by the respondent. That mistakes are required to be corrected. Hence this petition has been filed praying for amendment of the additional written statement.

Ld. Advocate for the appellant raised strong objection.

On perusal of the petition it appears that this is an appeal filed by the appellant being aggrieved by and dissatisfied with the judgment and decree dated 23.12.2013 and 03.01.2014 passed by Ld. Civil Judge (Sr. Divn.) 2nd Court Alipore in T.S. No. 51 of 2013.

On perusal of the case record it appears that one petition u/Or. 6 r.17 CPC filed by the appellant/plaintiff was allowed vide order dated 38 dated 22.07.2019. Accordingly, one amended memo of appeal was filed by appellant and the respondent was at liberty to file additional written statement. Accordingly respondent filed additional written statment on 20.01.2023. Now this petition has been filed on 06.09.2024 praying for amendment of this amendment of this additional written statement.

On perusal of the additional written statement it appears that in para – 7 he has stated “the plaintiff did not construct any house or structure on the suit property with express consent of the defendant. There was structure on the suit property which was in occupation of a saloon who was a tenant under the defendant.” Now, the respondent has sought for amendment of that portion after deleting the word “a saloon was a tenant under” and also the word “of the saloon”.

The respondent wants to insert in the 8th line of page 3 of his additional written statement the words “the plaintiff nor the”.

Considering the petition it appears that the respondent wants to insert that the structure on the suit property was in occupation of the defendant after deleting his admission that structure on the suit property which was in occupation of a saloon who was a tenant under the defendant.

This amendment petition has been filed after 1 year 8 months from the filing of additional written statement. The admission made by the respondent cannot be withdrawn and this amendment is not necessary in order to effectively adjudicate upon the dispute between the parties. Hence, this amendment petition is hereby rejected.

To 23.04.2025 for hearing of appeal.

D/c by me.

ADJ, 3rd Court, ALipore

ADJ 3rd Court, Alipore
(WB00742)