

Title Appeal – 11/ 2022

Order No.25.

Dated: 06.03.2026:

Today is fixed for hearing of the petition U/O 6 Rule 17 of CP Code.

Both parties file hazira.

Thereafter, perused the petition U/O 6 Rule 17 of CP Code specially the schedule of the proposed amendment.

Heard Ld. Advocate on behalf of the appellant.

From the perusal of the proposed amendment, it appears that the said amendment will not change the nature and character of the original suit. So, I am inclined to allow the instant petition dated 07.08.2025.

Hence, it is,

O r d e r e d

that the petition U/O 6 Rule 17 of CP Code is allowed on its merits, but without any costs.

Appellant to file the Amended Plaintiff by 20.03.2026.

Appellant has also filed an application Under Order 41 Rule 27 read with Section 151 of CP Code, whereby the appellant has stated that he intends to mark the certified copy of registered Deed of Gift being no.01305 for the year 2012 as executed by Laxmi Narayan Poddar in favour of his son Debasish Poddar, which has been marked 'X' for identification.

Perused the provision of Order 41 Rule 27 of CP Code, wherein it has been laid down in sub Section (1) (aa) that the party seeking to produce additional evidence, establishes that notwithstanding the exercise of due diligence, such evidence was not within his knowledge or could not, after the exercise of due diligence, be produced by him at the time when the Decree appealed against was passed.

In view of statutory mandate the case record is to be remanded back to Ld. Trial Court giving an opportunity to the appellant to adduce further evidence, which he could not gather at the time of trial of the original suit, after filing amended plaintiff before this Court.

In view of above mentioned reasons, the Title Appeal also stands disposed of.

Ld. Trial Court is requested to give fresh opportunity to both sides to adduce further evidence and proceed with the trial again.

Let a copy of order sheet along with TCR be sent back to the Court of Ld. Civil Judge (Junior Division), 1st Court, Sealdah after filing of Amended Plaintiff by the Appellant on 20.03.2026.

D/C by me,

ADJ, FTC-II, Sealdah.

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