

D/L. 8.
June 16, 2026.
MNS.

Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Jurisdiction

CO No. 80 of 2026

Nirubala Roy and others
Vs.
Toka Roy and others

Mr. Saumyajyoti Dutta,
Mr. Anurag Sharma, Advs.

...for the petitioners.

1. Leave is granted to the petitioners, as per the prayer of the petitioners, to file a supplementary affidavit, which is filed today and is kept on record.
2. The present revisional application has been filed against the rejection of an application for amendment of the plaint filed by the plaintiffs/petitioners.
3. Learned counsel for the petitioners argues that the suit, as originally framed, was for declaration that the plaintiffs are absolute joint owners of the suit property and for eviction of the original defendants/opposite parties.
4. The premise of the original suit was that the plaintiffs, as co-owners, are the absolute owners of a demarcated portion of the suit property, the other co-owners of the plaintiffs having sold their shares in the property by demarcation to the defendants.
5. It was further alleged that the portion of the suit property transferred by dint of such title deeds, executed

by the co-owners in favour of the others by demarcation, was beyond the shares of the said co-owners.

6. Subsequently, an application for amendment of the written statement was made and allowed, whereby it came to the notice of the plaintiffs/petitioners that a third party to the suit was claiming to be co-owner by dint of purchase.

7. In view of the said claim, it became necessary for the plaintiffs to seek a partition of the joint property by amendment of the plaint and to seek addition of the third party-purchaser.

8. Learned counsel for the petitioners argues that by the impugned order, apart from dismissing the amendment application, which was a necessary corollary of the original pleadings and was necessitated by the amendment to the written statement, the learned trial Judge also dismissed an application under Order 1 Rule 10(2) of the Code of Civil Procedure filed by the plaintiffs for addition of the other co-sharer, who was not a party to the suit originally.

9. It transpires from the arguments that, if allowed, the amendment would only incorporate the additional prayer of partition, the rudiments of which are already found in the pleadings by way of amended written statement.

10. That apart, since an additional person, being a third party to the suit, has already been claimed as co-owner, for abundant caution, the said party was sought to be added, which is necessarily in aid of the proper and complete adjudication of the suit.

11. Thus, a doubt is raised as to whether the learned trial Judge was justified in refusing the proposed amendment and addition of party application. As such, the revisional application is required to be heard on the above issues.

12. Hence, the petitioner shall serve copies of CO No. 80 of 2026 as well as the supplementary affidavit filed today on the opposite parties, indicating that the matter shall be listed for hearing before the next Circuit, when the petitioners shall file an affidavit-of-service to that effect.

13. There shall be stay of operation of all further proceedings in Title Suit No. 126 of 2013 pending before the learned Civil Judge (Senior Division) at Jalpaiguri till August 31, 2026 or until further orders, whichever is earlier.

(Sabyasachi Bhattacharyya, J.)