

OD-19

IN THE HIGH COURT AT CALCUTTA
ORIGINAL SIDE
Ordinary Original Civil Jurisdiction

CS/93/2014
IA NO: GA/9/2025

LAXMI SRIJAN PVT LTD
VS
SRI NARAYAN CHANDRA DUTTA & ORS.

Before:
The Hon'ble Justice BISWAROOP CHOWDHURY
Date: 20th May 2025

Appearance:
Mr. Amitava
Mukherjee, Sr.,Adv.
Ms. Munmun Dubey,Adv.
Ms. Arpita Saha, Adv.
Ms. Antara Das,Adv.
...for the petitioner.
Mr. Purna Chandra Paul Chowdhury, Adv.
Mr. Deep Narayan Mukherjee, Adv.
Mr. Gopal Paul Chowdhury, Adv.
.....for the defendant no.3.

The Court: This is an application for amendment filed by the Defendant no-3/petitioner praying for amendment indicated and underlined in RED Ink marked with letter 'D' on the copy of the written statement.

It is the contention of the petitioner that the suit is misconceived one and liable to be dismissed. The suit as framed is not maintainable in law. The subject matter of the suit is based on an unregistered document purportedly introduced as an Assignment agreement allegedly made on 18-01-2012. The said documents in no way can be called an agreement for sale. The nomenclature and the subject matter appearing on the said document do not tantamount to the concept of agreement for sale as alleged.

The petitioner has further contended that the petitioner is the owner in respect of 10.18 % undivided share concerning the premises No. 39, Nimtala Ghat Street Kolkata – 700006. The obligation of the plaintiff as provided in the said purported document dated 18.1-2012 are solely binding upon the plaintiff itself and the said

Bengal Property Centre – in terse and such obligation cannot be enforceable against the petitioner.

It is also contended that the plaintiff with Sinister motive and shrouded intention, has not impleaded the said Bengal Proprietary Centre or its partners/proprietor with a purpose to mislead the Court only to suppress the material fact as to the said effectiveness and ineffectiveness of the said purported document date 03.05.2010 as well as alleged Assignment document.

It is contended that in the suit he has been arrayed as defendant no-3 and after receipt of summons in the instant suit he filed written statement within the time as prescribed by law and have been contesting the suit Due to inadvertance and bonafide mistake some relevant points which are required for proper adjudication of this instant proceedings has not been incorporated in his written statement.

It is contended that the following paragraphs be incorporated in the written statement to achieve complete composite relief:

“15A. This defendant states that the said agreement dated 3rd May, 2010 was made and executed by and between the defendants and M/S. Bengal Property Centre where one SK. Mukhtar Ali and one Amarnath Mehta being the partners of the said M/S. Bengal Property Centre put their signatures as intending buyers to the said agreement for sale as mentioned hereinabove. In pursuance to the said agreement for sale dated 3rd May, 2010 M/S. Bengal Property Centre through its proprietor namely Amarnath Mehta by executing a notarized Agreement for Assignment dated 18th January, 2012 purportedly assigned the liabilities as incorporated in the earlier document dated 03.05.2010 in respect of the suit property in favour of the plaintiff herein. Originally it transpires from the said Agreement dated 03.05.2010 the said Bengal Property Centre was a partnership firm but the impugned Assignment document discloses the said partnership firm became a proprietorship one without notice of this defendant.

15B. The defendants herein are purportedly described as confirming parties to the said Deed of Assignment dated 18th January, 2012. The origin of the said document is an inter-se arrangement between the plaintiff and M/S. Bengal Property Centre and based on the spirit and ideas purportedly provided in the document dated 03.05.2010, hence no relief can be sought for against the defendants in the instant suit on the basis of the said notarized Deed of Assignment dated 18th January, 2012. Rights and liabilities of the parties, if any, can only be determined and regulated in terms of the Agreement for Sale dated 3rd May, 2010 and not from the said alleged Deed of Assignment dated 18th January, 2012. Hence the instant suit is barred by law of limitation and also the provision of Specific Relief Act (as amended from time to time) can not be enforceable so far this proceeding is concerned. Moreover the said agreements are unregistered, hence the same should not be enforced under the law.

15 C. The plaintiff in this instant proceeding has become assignee of the said M/S. Bengal Property Limited by virtue of an unregistered document purportedly termed as deed of assignment and no relief and/or reliefs can be sought for in this instant proceeding by praying specific performance of the said unregistered documents allegedly introduced as deed of assignment dated 18th January, 2012 which is not legally enforceable as per the specific provisions of Indian Stamp Act, 1899. The subject Agreement dated 18.01.2012 as alleged which the Plaintiff seeks to enforce by filing the instant suit, is not at all maintainable in the eyes of law and is a void abinitio as being non-performable, not-executable and non-est in the eye of law.

15 D. This defendant further states that the agreement in question is a contingent agreement depending on the happening of an uncertain future event, i.e., the rooting out or vacating of the occupant/s of the premises etc. such an agreement cannot be enforced, since the purport, nature and objective of the same is a contingent and unpredictable contract. The said assignment document has no legal entity of its own. One Arijit Dutta runs his business from the suit property, although the Defendants

by virtue of the Agreement for sale dated May 3, 2010 specifically agree that the owners after evicting lawfully the occupants from the suit premises would hand over the peaceful and vacant possession of the suit premises to M/S. Bengal Property Limited or to its nominee as stated therein. The plaintiff herein by taking law in his own hand and with the help of said Amarnath Mehta partner or proprietor in question of the said Bengal Property Centre forcefully demolished the entire place of business of the said occupants including the said Arijit Dutta and forcefully tried to evict them from the premises in contrary to the terms of the said agreement dated 3rd May, 2010. The said Amarnath Mehta/Bengal Property Center unauthorizedly acted as owner of the premises in question. The Plaintiff has also deliberately feigned ignorance to the specific clauses of the said alleged Assignment document which purportedly specifies that the M/S., Bengal Property Center would sell the property after putting the plaintiff into possession only upon evicting all the occupants from the property. It is clear from the said purported agreements that neither the Plaintiff nor the said M/s., Bengal Property has not yet been favoured and supported with any legal right, title and thus the instant suit is wholly premature and is a desperate attempt to force in a foul manner for specific performance of the said Agreement for Sale as alleged against the defendants.

15E. The instant suit is founded on an assertion that the Plaintiff has by virtue of the said purported Agreement for Sale allegedly acquired substantial legal right and title over the suit property and sought decree for Specific Performance of Contract against the Defendants on the purported ground that the Defendants are in breach of the aforesaid alleged Agreement for Sale which is in fact a simpliciter Assignment document. The Plaintiff allegedly claims sole right from the aforesaid alleged Agreement dated 3rd May, 2010 and is basically seeking a relief for specific performance of the terms of the said alleged Agreement for Sale under the umbrella of the alleged assignment document, which ought not to be permissible under the

law. In fact upon following on the agreement dated 03.05.2010 the said Amarnath Mehta of Bengal Property Centre has been styled and transmuted as owner of the said premises. He is out and out a defaulted person who deliberately failed to honour the said agreement dated 03.05.2010 and the provisions thereof.

15F. There is a termination clause in the agreement which presupposes that the agreement is, in its very nature, determinable and this Defendant is entitled to terminate the same. This defendant had already terminated his obligation and returned alleged advance by cheques. The contract in question, is also determinable in nature and this Defendant is entitled to rescind the same in accordance with the law. The Defendant is eligible to restore from the Plaintiff all the benefits as a consequence of recession or termination of the said agreement. The aforesaid two agreements, in any event, stand cancelled, and such fact would be evinced from the flow of events in respect of the conduct and correspondences exchanged between the parties. The basis and manner of share of the defendants in the said property as determined by the plaintiff is frivolous and not admitted.

15G. The plaintiff in a misconceived manner deliberately failed to implead M/s., Bengal Property Center or Amarnath Mehta as party to the instant suit. By reviewing and considering all the pleadings in the suit it justly transpires that the said Amarnath Mehta/ M/s., Bengal Property Center is a necessary party in the proceeding and without their presence and statements proper adjudication of the instant proceeding may be obstructed. Hence, the suit suffer from the principle of non-joinder of parties.”

It is submitted that such amendments may be inserted after paragraph 15 of the written statement. It is further contended that the amendment sought for is necessary for ascertaining the real question in controversy between the parties and will not change the nature and character of the suit and the pleadings or the original stand of this defendants.

The plaintiffs contested the case by filing written objection. It is the contention of the plaintiff that the paragraphs 4 and 5 of the said application are denied and disputed. It is denied by the plaintiff that the suit is misconceived and liable to be dismissed as the suit is based on an unregistered document being an assignment agreement made on 18-01-2012 and in no way can be called an agreement for sale as alleged or that the plaintiff has no cause of action to file the instant suit. It is further contended that the defendant including defendant no-3/petitioner has entered into an agreement for sale with the plaintiff on 18-01-2012 keeping their eyes open and knowing fully well about the contents of the said agreement and had accepted the earnest money to the tune of Rs. 100,000/- each total amounting to Rs. 50,00,000/- and inspite of receipt of the same the defendants have backed out and refused to execute the deed of conveyance for which the plaintiff had no other option but to file the suit for specific performance of contract. Under such circumstances the defendant no. 3/petitioner has no right to allege that the agreement dated 18.01.2012 is not binding upon the defendants or that the agreement dated 3rd May 2010 executed by and between the defendants and M/S Bengal Property Centre was also not valid and legal. The plaintiffs also denied and disputed statements made in paragraph 7 and 8 of the said application that the defendant due to inadvertence and bona fide mistake could not incorporate relevant point for proper adjudication in the suit.

The defendant no-3/petitioner filed affidavit in reply re-iterating the contentions made in the petition.

Heard Learned Advocate for the petitioner/defendant no-3 and Learned Advocate for the opposite party/plaintiff. Perused the petition filed and Affidavit in opposition and Reply and the written notes of arguments.

Learned Advocate for the Petitioner submits that the petitioner due to inadvertence failed to incorporate the paragraphs sought for to be amended. Learned

Advocate further submits that the amendment sought for is necessary for complete adjudication of the dispute, and that the proposed amendment sought for will not change the nature and character of the suit. Learned Advocate also submits that the instant suit is not maintainable against his client. Learned Advocate submits that the plaintiff in their opposition to the said application for amendment of written statement contended that it could be taken when the written statement was filed. It does not mean that the amendment of written statement as sought for are not relevant for proper disposal of the suit.

Learned Advocate relies upon the following judicial decisions.

Gulwant Kaur.VS Mahinder Singh.

1974(2) ICR Punjab and Haryana. 282

B.K.N. Pillai V P. Pillai

Reported in AIR-2000 S.C. 614

Sajjan Kumar VS Ram Kishan.

Reported in 2005 13 SCC-89.

Soumen Chowdhury VS Jaydeb Kundu.

Reported in 2025(1) ICC 1(Cal).

N.C. Bansal VS Uttar Pradesh Financial Corporation and Anr.

Reported in (2018) 2 SCC P347

USHA DEVI VS RI JWAN AHAMD AND OTHERS.

Reported in (2008) 3 SCC. P717.

Bijoy Krishna Pal VS Mohon Chatterjee and ors.

Reported in 2024 (4) ICC P. 127(cal)

Learned Advocate for the plaintiff/opposite party submits that the application of the defendant no-3/petitioner is a mala-fide act which is made to delay the proceedings. Learned Advocate further submits that the defendant no-3 got the opportunity to incorporate these facts at the time of filing additional written

statement but he did not do so, and now he intends to delay the matter. Learned Advocate also submits that the amendments are not necessary for adjudication of the dispute. Learned Advocate for the plaintiff/opposite party submits that the plaintiffs and the defendants discovered their documents and the Judges Brief was also prepared after due scrutiny of document by both the parties. Issues were also framed and the matter was fixed for witness action on 29th January 2025. At that point of time the defendant no-3 came up with an application for amendment of written statement seeking to introduce paragraph 15A to 15G i.e., 7 paragraph by way of amendment of plaint. Learned Advocate further submits that the defendant no-3 is trying to introduce a new case altogether by withdrawing the categorical admission made in the original written statement filed by the defendant no. 3 on 5th May 2016. The said paragraphs no 15A, and 15B will be evident that the same are in contradiction to what stated in paragraph 7, 8, 9 and 10 of the original written statement. Learned Advocate also submits that by introducing para-15C the defendant is trying to introduce something which are all matter of law which is already in the written statement. Furthermore the main intention of the defendant no. 3 is to introduce one Arijit Dutta who happens to be his son into the suit by describing him to be one of the occupant of a portion of the suit property and who is required to be evicted in accordance with law which cannot be allowed in a suit for specific performance of contract. Arijit Dutta being the son of the defendant no.3 is bound by the decree if passed against defendant no. 3 as he has no independent existence in the suit property.

It is submitted by the Learned Advocate that the defendant is trying to withdraw admission made in the original written statement and trying to introduce a new person in the suit property.

Learned Advocate relies upon the following judicial decision:-

Life Insurance Corporation of India VS Sanjeev Builders Pvt. Ltd.

Reported in AIR-2022 S.C. 4256.

Before proceeding to decide the material in issue it is necessary to consider the provisions contained in Order VI Rule 17 of the Code of Civil Procedure.

Order VI Rule 17 provides as follows:

17. Amendment of pleadings – The Court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may just and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties.

Provided that no application for amendment shall be allowed after the trial has commenced unless the Court comes to the conclusion that in spite of due diligence the party could not have raised the matter before the commencement of trial.

In the instant matter it is an admitted position that trial has not commenced. Thus it is necessary to consider whether the proposed amendments sought to be incorporated should be allowed.

In the case of Bijoy Krishna Pal (supra) a Learned Judge of this Court observed as follows:

‘17. The provision of Order VI Rule 17 of CPC can be divided into two parts. The first part is discretionary (“may”) and gives wide and unfettered discretion to decide on case to case basis whenever it appears to be just. The court may or may not allow the amendment to the proceeding for determining the real questions of controversy. The approach of the Court should be liberal and not hypothetical. Hence, the amendment to proceedings is not a right; rather it is in the discretion of the court. The second part is mandatory (“shall”) and orders the court to accept all the applications necessary for the purpose of determining the real issue between the parties if it finds that the parties could not have raised the issue in spite of the due diligence before the commencement of the trial. However, such discretion must be exercised by applying the judicial mind according to the well-established principles.

18. Moreover, it should be kept in mind that the Trial Courts which are the Courts of first instance must adopt a balanced approach in dealing with the applications and there has to be well considered reasoning behind the decision in these aspects. It has to be pointed out that in cases where the amendment of the plaint is necessary and the same is not allowed, it could virtually defeat the very purpose of filing the suit itself.

19. Recently Hon'ble Apex Court in case of Varun Pahwa v. Renu Chaudhary reported in (2019) 15 SCC 628 : [2019(2) ICC (S.C.) 176] observed that the amendments in the pleading cannot be refused merely because of some mistake, negligence, inadvertence or even infraction of the rules of procedure. The Hon'ble Apex Court held in that case that even if a party is negligent or careless as the power to grant amendment of the pleadings is intended to serve the ends of justice and is not governed by any such narrow or technical limitation. The Hon'ble Apex Court virtually allowed the amendment of the pleadings and observed that the Court should avoid hyper technical approach in disposing the application praying for amendment of the pleading.

20. In view of the foregoing reason, I am of the considered opinion that the proposed amendment application filed by the plaintiff is to be allowed intending to insert the prayer of Mandatory Injunction and recovery of possession of 'bodi' as situated on the scheduled property.

21. In the result:

(a) This Civil Revision Petition is allowed and order dated May 16, 2013 passed by the Learned Trial Court in connection with Title Suit No. 4 of 2012 is hereby set aside to the extent of amendment as 'bhairab bedi' is concerned.

(b) The prayer for inserting Mandatory Injunction and recovery of possession in the prayer portion of the plaint by the plaintiff in filing the amendment application is hereby allowed.

(c) The trial court is directed to permit the revision petitioner to carry out the amendment and file amended plaint;

(d) The defendant is permitted to file an additional written statement if any, within 30 days from the date of filing of the amended plaint.

(e) Plaintiffs shall be given opportunity to adduce evidence upon the amended portion of the plaint. Liberty shall also be given to the defendants to cross examine the plaintiffs' witness.'

In the case of Usha Devi (supra) the Hon'ble Court observed as follows:

'15. In view of the decision in Sajjan Kumar we are of the view that this appeal too deserves to be allowed. We may clarify here that in this order we do not venture to make any pronouncement on the larger issue as to the stage that would mark the commencement of trial of a suit but we simply find that the appeal in hand is closer on facts to the decision in Sajjan Kumar and following that decision the prayer for amendment in the present appeal should also be allowed.

16. As to the submission made on behalf of the respondents that the amendment will render the suit non-maintainable because it would not only materially change the suit property but also change the cause of action it has only to be pointed out that in order to allow the prayer for amendment the merit of the amendment is hardly a relevant consideration and it will be open to the respondent-defendants to raise their objection in regard to the amended plaint by making any corresponding amendments in their written statement.

In the case of B.K.N. Pillai (supra) the Hon'ble Court observed as follows:

"5. In the appeals the appellant-defendant wanted to amend the written statement by taking a plea that in case he is not held a lessee, he was entitled to the benefit of Section 60(b) of the Indian Easements Act, 1882. Learned counsel for the appellant is not interested in incorporation of the other pleas raised in the application seeking amendment The plea sought to be raised is

neither inconsistent nor repugnant to the pleas already raised in defence. The alternative plea sought to be incorporated in the written statement is in fact the extension of the plea of the respondent- plaintiff and rebuttal to the issue regarding liability of the appellant of being dispossessed on proof of the fact that he was a licensee liable to be evicted in accordance with the provisions of law. The mere fact that the appellant had filed the application after a prolonged delay could not be made a ground for rejecting his prayer particularly when the respondent-plaintiff could be compensated by costs. We do not agree with the finding of the High Court that the proposed amendment virtually amounted to withdrawal of any admission made by the appellant and that such withdrawal was likely to cause irretrievable prejudice to the respondent.”

In the case of *Gulwant Kaur (supra)* the Hon’ble Court observed as follows:

“5. Learned counsel for the plaintiffs has also referred to the judgment of a learned Single Judge of the Madras High Court in the State of Madras v. *Muniyappa Chetty*, AIR 1956 Mad 679. The plaintiff in that case had claimed ownership of certain property on the ground that he had become an absolute owner thereof by reason of adverse possession for over sixty years, against the State Government. He subsequently wanted to amend the plaint so as to claim that he and his predecessors-in-interest had been in possession of the property on the basis of an ancient grant which had been lost in antiquity. It was held that such an amendment could not be allowed as the new case sought to be set out as entirely different which would change the character of the case as was originally put forward by the plaintiff. In the present case, the possession is claimed under both the pleas with effect from the same date. The new plea sought to be raised is not destructive of the original plea and both the pleas could have been taken up in the suit originally in the alternative.”

In the case of *Life Insurance Corporation of India (supra)* the Hon’ble

Supreme Court observed as follows:

70. Our final conclusions may be summed up thus:

(i) Order II Rule 2 CPC operates as a bar against a subsequent suit if the requisite conditions for application thereof are satisfied and the field of amendment of pleadings falls far beyond its purview. The plea of amendment being barred under Order II Rule 2 CPC is, thus, misconceived and hence negative.

(ii) All amendments are to be allowed which are necessary for determining the real question in controversy provided it does not cause injustice or prejudice to the other side. This is mandatory, as is apparent from the use of the word “shall”, in the latter part of Order VI Rule 17 of the CPC.

(iii) The prayer for amendment is to be allowed

- (i) If the amendment is required for effective and proper adjudication of the controversy between the parties, and
- (ii) To avoid multiplicity of proceedings, provided (a) the amendment does not result in injustice to the other side,
- (b) by the amendment, the parties seeking amendment does not seek to withdraw any clear admission made by the party which confers a right on the other side and
- (c) the amendment does not raise a time barred claim, resulting in divesting of the other side of a valuable accrued right (in certain situations).

(iv) A prayer for amendment is generally required to be allowed unless

- (i) By the amendment, a time barred claim is sought to be introduced, in which case the fact that the claim would be time barred becomes a relevant factor for consideration,
- (ii) The amendment changes the nature of the suit,
- (iii) The prayer for amendment is malafide, or
- (iv) By the amendment, the other side loses a valid defence.

- (v) In dealing with a prayer for amendment of pleadings, the court should avoid a hypertechnical approach, and is ordinarily required to be liberal especially where the opposite party can be compensated by costs.
- (vi) Where the amendment would enable the court to pinpointedly consider the dispute and would aid in rendering a more satisfactory decision, the prayer for amendment should be allowed.
- (vii) Where the amendment merely sought to introduce an additional or a new approach without introducing a time barred cause of action, the amendment is liable to be allowed even after expiry of limitation.
- (viii) Amendment may be justifiably allowed where it is intended to rectify the absence of material particulars in the plaint.
- (ix) Delay in applying for amendment alone is not a ground to disallow the prayer. Where the aspect of delay is arguable, the prayer for amendment could be allowed and the issue of limitation framed separately for decision.
- (x) Where the amendment changes the nature of the suit or the cause of action, so as to set up an entirely new case, foreign to the case set up in the plaint, the amendment must be disallowed. Where, however, the amendment sought is only with respect to the relief in the plaint, and is predicated on facts which are already pleaded in the plaint, ordinarily the amendment is required to be allowed.
- (xi) Where the amendment is sought before commencement of trial, the court is required to be liberal in its approach. The

court is required to bear in mind the fact that the opposite party would have a chance to meet the case set up in amendment. As such, where the amendment does not result in irreparable prejudice to the opposite party, or divest the opposite party of an advantage which it had secured as a result of an admission by the party seeking amendment, the amendment is required to be allowed. Equally, where the amendment is necessary for the court to effectively adjudicate on the main issues in controversy between the parties, the amendment should be allowed. (See *Vijay Gupta v. Gagninder Kr. Gandhi and Ors.*, 2022 SCC OnLine Del1897) : (AIROnline 2022 Del 1797).’

Apart from the decisions cited by Learned Counsel; for the parties it is necessary to consider the following Judicial decision.

Baldev Singh and others VS Manohar Singh and Anr.

Reported in (2006) 6 SCC. P 498.

The Hon’ble Supreme Court in the case of Baldev Singh and others (supra) observed as follows:

“8. It is well settled by various decisions of this Court as well as the High Courts in India that Courts should be extremely liberal in granting the prayer for amendment of pleadings unless serious injustice or irreparable loss is caused to the other side. In this connection, reference can be made to a decision of the Privy Council in *Ma Shwe Mya v. Maung Mo Hnaung* (AIR 1922 P.C. 249) in which the Privy Council observed:

"All rules of courts are nothing but provisions intended to secure the proper administration of justice and it is, therefore, essential that they should be made to serve and be subordinate to that purpose, so that full powers of

amendment *must be enjoyed and should always be liberally exercised*, but nonetheless no power has yet been given to enable one distinct cause of action to be substituted for another, nor to change by means of amendment, the subject-matter of the suit."

15. Let us now take up the last ground on which the application for amendment of the written statement was rejected by the High Court as well as the Trial Court. The rejection was made on the ground that inconsistent plea cannot be allowed to be taken. We are unable to appreciate the ground of rejection made by the High Court as well as the Trial Court. After going through the pleadings and also the statements made in the application for amendment of the written statement, we fail to understand how inconsistent plea could be said to have been taken by the appellants in their application for amendment of the written statement, excepting the plea taken by the appellants in the application for amendment of written statement regarding the joint ownership of the suit property. Accordingly, on facts, we are not satisfied that the application for amendment of the written statement could be rejected also on this ground. That apart, it is now well settled that an amendment of a plaint and amendment of a written statement are not necessarily governed by exactly the same principle. It is true that some general principles are certainly common to both, but the rules that the plaintiff cannot be allowed to amend his pleadings so as to alter materially or substitute his cause of action or the nature of his claim has necessarily no counterpart in the law relating to amendment of the written statement. Adding a new ground of defence or substituting or altering a defence does not raise the same problem as adding, altering or substituting a new cause of action. Accordingly, in the case of

amendment of written statement, the courts are inclined to be more liberal in allowing amendment of the written statement than of plaint and question of prejudice is less likely to operate with same rigour in the former than in the latter case.”

Right to defend is a basic right of all persons. A person has right to defend any case brought against him before any Court, Tribunal or Administrative Authority. Thus reasonable opportunity should be given to a person to defend his case. In the instant case although date for witness action was fixed but evidence of witnesses did not start and prior to that application for amendment was taken out.

Hence it is necessary to consider as to whether the proposed amendments should be allowed for the purpose of deciding the actual controversy between the parties. The suit is for specific performance of the contract and most of the amendments sought for by the defendant no-3 are formal in nature and is necessary to decide the controversy as both factual aspects and legal aspects are involved. However proposed amendment sought for in paragraph 15 D of the schedule is not necessary to decide the controversy between the parties rather it will complicate the issue than resolving the same. It is also not relevant in the suit to know what a third party is doing in the suit property or what steps are taken against them. Thus the proposed prayer made in paragraph 15D of the schedule is rejected and rest of the proposed amendments are allowed.

Let there be an order in terms of prayer b), c, d and e) of the Master Summons dated 27-01-2025 subject to the modification that proposed amendment in item 15D of written schedule is disallowed. Such order is subject to the payment of costs of 200 G.M.S within two weeks after vacation.

(BISWAROOP CHOWDHURY, J.)