

Present  
**Mr. Justice Md. Salim.**

**CIVIL REVISION NO.584 OF 2024**

Ahamed Akbar Sobhan  
.....The defendant-Petitioner.

**-VERSUS-**

Unideb Trading (BD) Ltd, represented by  
its Director Tahmina Akter and others.  
.....The plaintiff-opposite parties.

Mr. Mamun Chowdhury, Advocate  
..... For the petitioner.

Mr. Md. Ramzan Ali Sikder with  
Mr. Md. Motahar Hossain, Advocates  
..... For the opposite parties.

**Heard on 29.05.2025 and 26.06.2025.**

**Judgment on 26.06.2025.**

By this Rule, the opposite parties were called upon to show cause as to why the impugned judgment and order dated 20.08.2023 passed by the learned District Judge, Narayanganj in Civil Revision No.79 of 2023 rejecting the civil revision and affirming the judgment and order dated 16.05.2023 passed by the learned Senior Assistant Judge, Sonargaon, Narayanganj in Title Suit No.195 of 2011 allowing the application under Order VI Rule 17 read with Section 151 of the Code of Civil Procedure for amendment of plaint.

Facts leading to this Rule are that the opposite party Nos. 1 and 2, as plaintiffs, instituted Title Suit No.195 of

2011 before the Senior Assistant Judge, Sonargaon, Narayanganj for permanent injunction.

The defendant No.1 contested the suit by filing a written statement.

During the pendency of the trial, the plaintiff-opposite party Nos. 1 and 2 filed an application under Order VI Rule 17 read with Section 151 for amendment of the plaint.

The defendant-petitioner contested the same by filing a written objection. Subsequently, the learned Senior Assistant Judge of Sonargaon, Narayanganj, by the judgment and order dated 16 May 2023, allowed the application to amend the plaint.

Being aggrieved, the defendants preferred Civil Revision No.79 of 2023 before the District Judge, Narayanganj. Subsequently, the learned District Judge, Narayanganj by the judgment and order dated 20.08.2023 rejected civil revision and affirmed those passed by the trial Court.

Being aggrieved, the defendant as petitioner preferred this Civil Revision under Section 115(1) of the Code of Civil Procedure before this Court and obtained the instant Rule and an order of stay.

Mr. Mamun Chowdhury, the learned Counsel appearing on behalf of the petitioner, submits that both

the Courts below have misconceived the very principle of law relating to the amendment of the plaint.

Mr. Md. Ramzan Ali Sikder, the learned Counsel appearing on behalf of the opposite parties, submits that as per Order VI Rule 17 of the Code of Civil Procedure, the Court has ample power to amend the application at any stage of the suit, so both the Courts below justifiedly allowed the amendment application.

I have anxiously considered the submission of the learned advocate for both parties, pursued the impugned judgment and order, amendment application, and the other materials on record. It appears that both the courts below allowed the application for amendment, stating that the proposed amendment does not alter the nature and character of the suit. Therefore, the application for amendment under Order VI, Rule 17, is allowed.

Notably, the law relating to the amendment of a plaint is envisaged in Order VI Rule 17 of the Code of Civil Procedure provides that if any material facts and necessary particulars are omitted during the drafting of a plaint, such particulars can be added to the pleadings at any stage of the proceedings; there should be some foundation and basis for such amendment. All amendments that may be necessary for determining the real question in controversy between the parties may be allowed, provided it does not cause injustice or prejudice

to the other side. Ultimately, courts exist for the purpose of doing justice between the parties and not for punishing them, and they are empowered to grant amendments in the more significant interest of doing complete justice to the parties. Provisions for the amendment of pleadings are intended to promote the ends of justice and not defeat them.

It is also a well-established principle that the object of courts is to decide the rights of the parties and not to punish them for mistakes they make in the conduct of their cases by deciding otherwise than in accordance with their rights. If the error or mistake is not fraudulent or is not intended to overreach, the Court ought to correct it if it cannot do injustice to the other side. Courts do not exist for the sake of discipline but to decide matters in controversy. It seems that the amendment will help to determine the fundamental controversy. It is as much a matter of right for the plaintiffs' to have the plaint corrected by this amendment. This view gets support in the case of *Kishandas Rupchand and another Vs. Rachappa Vithoba Shilwant and others* reported in (1909) 33 Bom 644) Batchelo, J observed that-

“All amendments ought to be allowed, at any of the proceedings, which satisfy the two conditions (a) of not working injustice to the other side, and (b) of being necessary for the

purpose of determining the real question in controversy between the parties.”

A similar view has been taken in the case of Shahajadpur Central Co-operative Bank Ltd. Vs. Mujibur Rahman and others reported in 50 DLR (AD) 86 where their Lordships observed that-

“Order VI rule 17 CPC provides that the Court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such term as may be just and necessary for the purpose of determining the real question in controversy between the parties. The proposed amendment would settle the question whether during the pendency of the suit the plaintiff was dispossessed or not by defendant No.1 from the suit land. This will end all pending controversies between the parties and will not amount to a change in the nature and character of the suit.”

In the instant case, the plaintiff-applicant claimed in the application for amendment that he instituted the instant suit for a permanent injunction against the defendant-opposite party; however, during the trial, he was dispossessed of the suit land by the defendant. Therefore, he is compelled to file the above application for proposed amendment; otherwise, the plaintiff will suffer

irreparable loss and injury. In the empty eyes it transpired from the proposed amendment that adding a schedule and prayer for declaration of title and recovery of khas possession may appear to have changed the nature of the suit; however, a scrutiny of the original pleading will show that the facts were there in a different form, which are now being duly enunciated.

Mr. Chowdhury submits that the instant suit is for a perpetual injunction. After allowing the amendment application, the suit has become one for declaration and recovery of khas possession, which clearly demonstrates that the nature and character of the suit have been substantially changed. In his contention, he refers to the case of Abdul Wadud Contractor and another Vs. Nazir Ahmed and others, reported in 48 DLR (AD) 120, wherein it was observed that-

"Leave was granted to consider whether the delay on the part of the appellants praying for such increment of the claim was a proper ground for the proposed amendment of the plaint and whether the proposed amendment would change the character of the suit. The appellants are claiming the respondents to be their licensees in respect of the suit property as described in Schedule 'A' to the plaint which is a one-storied building etc. on a total land

measuring 4 gandas. By the proposed amendment the appellants prayed for recovery of possession of the building in suit along with an area of 12 gandas of land after removing the construction made thereon by the respondents. The respondents on the other hand claimed the whole of 12 gandas of land including the property described in Schedule 'A' to the plaint by virtue of gift from their maternal grandfather. As such if the proposed amendment is allowed even condoning the delay in filing the application under Order VI rule 17 of the Code of Civil Procedure for amendment of the plaint, the introduction of certain new facts and subsequent cause of action different from those made in the plaint will change the nature and character of the suit. The learned Single Judge of the High Court Division, therefore, correctly held that the learned Subordinate Judge rightly refused that prayer for the proposed amendment of the plaint. The appeal is, therefore, dismissed without any order as to costs."

Mr. Chowdhury also refers to the case of Samela Begum Vs. Chandullya Mridha and another reported in 3 BLT SC (HCD) 130, wherein it was observed that-

"It is a well settled principle of law that amendment of a pleading can be allowed at any stage of the proceeding but no such amendment can be allowed which would change the nature and character of the suit or of the plaint to the prejudice of the other party. In the instant case the petitioner has filed the certified copy of the original plaint as well as the petition by which the plaint was sought to be amendment. It appears that redical changes were sought to be introduced in the plaint by the amendment sought for and allowed by the Court. On the other hand the learned Assistant Judge has not discussed the merit of the application or of the nature and character of the amendment sought for but has passed a summary order allowing the amendment of the plaint. This in no way is a judicial order. The Court did not apply its judicial mind in passing the impugned order. In the above facts and circumstances I am of opinion that the matter should be sent back to the Trial Court for passing a proper order on the merit of the petition for amendment."

In reply, Mr. Sikder submits that there is no legal bar to allowing an amendment application of the plaint to

bring subsequent developments relating to the suit land, and an amendment may be proposed even to the suit land. In support of his contention, he refers to a case of the Managing Committee Vs. Obaidur Rahman Chowdhury and others reported in 31 DLR (AD) 133 wherein their lordships observed:---

“ ---- ----- The amendment is more a re-arrangement of the facts in their proper perspective and making a prayer for appropriate relief. Apparently, adding of a Schedule and the prayer of declaration of title and recovery of possession, may appear to have changed the nature of the suit, but a close scrutiny of the original pleading will show that the facts were there in a different form which are now being properly articulated. Apart from this, when the prayer was made for amendment there was no question of limitation and the plaintiff, has put in the requisite court fees. In that view of the matter, we do not find that the Courts below were in error in making the orders. It is to be observed that of the fundamental principles governing the amendment of the pleadings is that all the controversies between the parties as far as possible should be included and multiplicity of

the proceedings avoided. We, therefore, do not find any reason to interfere with decisions of the Courts below."

Mr. Shikder also refers to the case of Shahajadpur Central Co-operative Bank Ltd. Vs. Mujibur Rahman and others reported in 50 DLR (AD) 86, wherein it was observed that:----

"Order VI rule 17 CPC provides that 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 be just and necessary for the purpose of determining the real question in controversy between the parties. The proposed amendment would settle the question whether, during the pendency of the suit the plaintiff was dispossessed or not by defendant No.1 from the suit land. This will end all pending controversies between the parties and will not amount to a change in the nature and character of the suit."

It is a settled proposition of law that in an application for amendment after the commencement of trial, the applicant and the Court must write a cogent reason. However, the plain reading of the application under Order VI Rule 17 of the instant case manifests that

the proposed amendment admittedly will not change the suit's nature and character. Moreover, the reasons for the delay in the amendment application have been adequately explained, and the courts below gave cogent reasons to allow the application. Therefore, I do not find the substance to the submission advanced by Mr Chowdhury.

In the above facts and circumstances of the case, I am of the firm view that the proposed amendment will not change the nature and character of the suit. The learned District Judge, Narayangonj, rightly rejected the Civil Revision with sound reasons that the prayer for proposed amendment of the plaint will not change the nature and character of the suit. Therefore, I do not find any cogent ground for calling any interference of the impugned Judgment by this Court under Section 115(4) of the Code of Civil Procedure.

Resultantly, the Rule is discharged with cost.

The interim order of stay granted by this Court is hereby recalled and vacated.

Communicate the Judgment at once.

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**(Md. Salim, J).**