

IN THE SUPREME COURT OF BANGLADESH  
HIGH COURT DIVISION  
(CIVIL REVISIONAL JURISDICTION)

*Present:*

*Mr. Justice S M Kuddus Zaman*

**CIVIL REVISION NO.3955 OF 2015**

In the matter of:

An application under Section 115(1) of the Code of Civil Procedure.

And

Md. Monir Uddin and others

... Petitioners

-Versus-

Md. Abdul Jabbar and others

... Opposite parties

Mr. Md. Hasinur Rahman, Advocate

... For the petitioners.

Mr. Monzoor Ul-Karim with

Ms. Sarker Tahmeena Begum Sandha, Advocates

.... For the opposite party Nos.1-2, 4,  
6-10, 11, 13, 14, 16-18, 19-20, 22 and 24.

**Heard and Judgment on 08.12.2024.**

This Rule was issued calling upon the opposite parties to show cause as to why the impugned order dated 04.08.2015 passed by the learned District Judge, Kurigram in Civil Revision No.19 of 2015 summarily rejected the same and thereby affirming the order dated 11.05.2015 passed by the learned Joint District Judge, 2<sup>nd</sup> Court, Kurigram in Other class Suit No.23 of 1999 rejecting the application

under Order VI Rule 17 of the Code of Civil Procedure for amended of written statement should not be set aside and or pass such other or further order or orders as to this Court may seem fit and proper.

Facts in short are that in above suit for partition defendant Nos.23-26 submitted a petition on 02.11.2014 under Order 6 Rule 17 of the Code of Civil Procedure for amendment of their written statement. It was alleged that registered kabala deed No.7272 dated 09.09.1939 was erroneously written instead of deed No.2465 and date 01.11.1934 and the name Umar Ali was erroneously written in place of Udar Ali. Similar other amendments of the written statement which appears to be clerical in nature. The learned Joint District Judge rejected above petition.

Being aggrieved by above judgment and order of the trial Court above defendants as appellants preferred Civil Revision 19 of 2015 to the learned District Judge, Kurigram who rejected above revision and affirmed the judgment and order of the trial Court.

Being aggrieved by and dissatisfied with above judgment and order of the Court of Appeal below above petitioners as petitioners moved to this Court and obtained this Rule.

Mr. Md. Hasinur Rahman, learned Advocate for the petitioner submits that the amendments of the written statements sought by the defendant Nos.23-26 were to make necessary modifications due to typing mistake at the time of the drafting of the written statement. Those amendments do not touch the merit of the suit nor there was any

cause to delay the trial of the suit. But the learned Judge of the trial Court most illegally rejected above petition and the learned District Judge without any an independent assessment of the materials on record most illegally rejected above revision and affirmed above erroneous judgment and order of the trial Court which is not tenable in law.

Mr. Monzoor Ul- Karim Kazal, learned Advocate for the opposite party Nos. 1-2, 4, 6-10, 11, 13, 14, 16-18, 19-20, 22 and 24 submits that the amendments sought by the petitioners to their written statement are irrelevant and if allowed the same would cause under delay in concluding the trial of the suit. The learned District Judge on correct appreciation of materials on record rightly rejected above revision which calls for interference.

I have considered the submissions of the learned Advocates for the respective parties and carefully examined all materials on record.

It turns out from the petition filed by defendant Nos.23-26 for amendment of their written statement that they wanted to make amendments as to the number and date of a registered kabala deed of 1939 and wanted to make corrections of some names alleging that above errors were committed unintentionally at the time of drafting of the written statement. Above amendments do not in any way and touch the merit of the suit let alone changing of the character of above suit. It is well settled that the pleadings of a civil suit can be amendment at any point of time unless the same takes away any right already accrued

approved in favour of the opposite party. Above amendments sought by the defendants in their written statement do not in any way destroy any right accrued in favour of the plaintiffs.

In above view of the materials on record I hold that the learned District Judge committed serious illegality in rejecting the revision of the petitioners and affirming the flawed judgment and order of the trial Court which is not tenable in law.

I find substance in this civil revisional application under Section 115(1) of the Code of Civil Procedure and the Rule issued in this connection deserves to be made absolute.

In the result, this Rule is hereby made absolute.

The impugned order dated 04.08.2015 passed by the learned District Judge, Kurigram in Civil Revision No.19 of 2015 and thereby affirming the order dated 11.05.2015 passed by the learned Joint District Judge, 2<sup>nd</sup> Court, Kurigram in Other class Suit No.23 of 1999 is hereby set aside and above petition under Order VI Rule 17 of the Code of Civil Procedure for amendment of their written statement is allowed.

The learned Joint District Judge is directed to proceed with the trial of the case expeditiously in accordance with law.

However, there is no order as to costs.

Send down the lower Courts records immediately.