

(10)
11.12.2020
(p.jana)

**IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION**

(Via Video Conference)

CO 1419 of 2020

**Nemai Chandra Samanta
-versus-
Kashi Nath Saha & ors.**

Mr. Raghunath Chakraborty,
Mr. Mahaboob Ahmed, ... for the petitioner.

The defendant-petitioner in a suit for ejectment is the petitioner of the instant revisional application under Article 227 of the Constitution of India.

The suit was initially decreed, an appeal was taken out by the defendant/tenant against the said decree.

The appeal Court remanded the suit back to the Learned Trial Judge for re-hearing with the observation that the plaintiffs should be given an opportunity to incorporate the facts which have not been elaborately stated regarding their requirement of the suit premises in the plaint by filing amendment petition.

The plaintiffs after remand filed an application under Order VI Rule 17 of the Code of Civil Procedure seeking amendment of the plaint.

The Learned Trial Judge by the order impugned being Order No. 68 dated February 07, 2020 has allowed such amendment.

Mr. Raghunath Chakraborty, learned counsel appearing for the petitioner, submits that the Learned Trial Judge while

allowing the application for amendment has transgressed the scope of the order of remand. At the stage of allowing an application for amendment, investigation to the extent as suggested by Mr. Chakraborty is not called for.

It is always open for the defendant/tenant to demonstrate at the time of hearing of the said appeal that such amendment is beyond the scope of the order of remand.

That being the position, I do not find any reason to interfere with the order impugned.

However, time to file additional written statement by the defendant/petitioner is extended for a further period of two weeks from date, if not already filed.

CO 1419 of 2020 is disposed of with the above observations.

However, there shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance of all requisite formalities.

(Biswajit Basu, J.)