

24.03.2021
(S/L-02)
Ct.-18
(Susanta)

(Via Video Conference)

C.O. 9 of 2020
Panu Das
-Vs-
Narayan Biswas

Mr. Sukalyan Sarkar,
Mr. Surendra Kumar Sahrma,
..... For the Petitioner.

The revisional application under Article 227 of the Constitution of India is at the instance of the defendant in a suit for eviction and is directed against Order no. 33 dated August 2, 2019 passed by the 1st Court of Learned Civil Judge (Junior Division), Alipore in Ejectment Suit No. 40 of 2014.

The petitioner in the said suit filed an application for framing an issue regarding the ownership of the plaintiff over the suit property by re-casting the issues already framed.

The learned Trial Judge by the order impugned has refused to frame such an issue holding that in view of the inclusive definition of landlord under Section 2(c) of the West Bengal Premises Tenancy Act, 1997 the issue proposed by the petitioner is irrelevant.

On perusal of the records it appears that the plaintiff at paragraph 1 of the plaint has asserted his ownership over the suit property, the defendant by not dealing with the said averment

of the plaint in his written statement has admitted the ownership of the plaintiff over the suit property by the doctrine of non-traverse.

The facts and circumstances of the case suggest that the prayer of the defendant to frame an issue regarding ownership of the plaintiff over the suit property is mala fide and frivolous, aimed to delay the disposal of the suit filed in the year 2014.

C.O. 9 of 2020 is dismissed with **costs of Rs.10,000/-** (Rupees ten thousand only) to be paid by the petitioner to the opposite party within two weeks from date.

The learned Trial Judge shall ensure the payment of such costs.

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

(Biswajit Basu, J.)