

(03)
20.04.2021
(p.jana)

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

(Via Video Conference)

CO 916 of 2020

**Sri Mukut Kumar Ghosh
-versus-
Smt. Jayabati Pramanick & anr.**

Mr. Shibasis Ghosh,
Mr. Hare Krishna Haldar,
Mr. Sk. Afaz Uddin,
... for the petitioner.

Mr. Rahul Karmakar, ... for the opposite party.

This revisional application under Article 227 of the Constitution of India is at the instance of the defendant in a suit for eviction of trespassers being Title Suit No. 845 of 2017 pending before the learned Judge, 2nd Bench, City Civil Court at Calcutta.

The learned Trial Judge by the order impugned has dismissed an application filed by the petitioner seeking amendment of his written statement on the ground that the trial of the suit has commenced.

Mr. Ghosh, learned advocate appearing on behalf of the petitioner, submits that the learned Trial Judge has committed an error in holding that the trial of the suit has commenced inasmuch as the plaintiffs have only filed their evidence-in-chief without tendering the same and that being the stage of the suit, it cannot be said that the trial of the suit has commenced.

Mr. Karmakar, learned advocate appearing on behalf of the plaintiffs/opposite parties, submits that the petitioner is a trespasser in the suit property by the operation of Section 2(g) of the West Bengal Premises Tenancy Act of 1997, the petitioner has no defence under the Rent Control legislation, as such the proposed amendments of the written statement are not necessary

Heard the learned counsel appearing for the parties, perused the materials-on-record.

It appears that the defendant in his written statement has set up a defence that on the death of his uncle, the original tenant, he has inherited the tenancy over the suit property.

In view of said defence of the defendant, the issue to be decided in the suit is whether the petitioner is coming within the definition of 'tenant' as defined under Section 2(g) of the said Act of 1997; such being the limited scope of investigation in the said suit, the proposed amendments of the written statement of the petitioner are not necessary as rightly submitted by Mr. Karmakar.

Therefore, without going into the investigation as to the correctness of the finding that the trial of the suit has commenced, the conclusion being correct, the order impugned does not call for any interference.

CO 916 of 2020 is dismissed without any 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.)