

(14)
09.02.2021
(p.jana)

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

(Via Video Conference)

**CO 1025 of 2020
(I.A. No : CAN 1/2020)
(CAN is not in this file)**

**Sri Subhendu Sinha Roy
-versus-
Ashok Das & ors.**

Mr. Kushal Chatterjee,
Mr. Abhik Sarkar,
Mr. Iftekar Munshi, ... for the petitioner.

Mr. Gopal Chandra Ghosh, ... for the opposite parties.

The plaintiff in a suit for eviction is the petitioner of instant application under Article 227 of the Constitution of India which is directed against the order dated February 10, 2020 passed by the learned Civil Judge (Junior Division) Bidhannagar in Ejectment Suit No. 62 of 2007.

The learned Trial Judge by the order impugned has allowed an application filed by the defendants/opposite parties seeking amendment of their written statement.

Mr. Kushal Chatterjee, learned counsel appearing on behalf of the petitioner, submits that the order discloses no reason. Furthermore, the trial of the suit since has commenced, the defendants are not entitled to seek the said amendment without satisfying the requirement of proviso appended to Order VI Rule 17 of the Code of Civil Procedure.

Responding to the said submission of Mr. Chatterjee, Mr. Gopal Chandra Ghosh, learned senior counsel appearing for the defendants/opposite parties, submits that the plaintiff during the pendency of the connected eviction suit applied before Rent Controller for fixation of fair rent of the suit property. The Rent Controller by the order dated October 01, 2015 fixed the fair rent. The plaintiff assailed the said order in appeal before the West Bengal Land Reforms and Tenancy Tribunal.

The said appeal was dismissed on August 07, 2019 and only thereafter the petitioner have sought for amendment of the written statement to incorporate the factum of the said Rent Control proceeding in their written statement. The said fact being occurred subsequent to the commencement of trial of the suit. The amendment sought for is not hit by the proviso appended to Order VI Rule 17 of the Code.

Having heard the learned counsel appearing for the parties and on perusal of the records, it appears that the defendants by the proposed amendment are seeking to incorporate the fact of the said proceeding before the Rent Controller.

The said proceeding attains finality upon the dismissal of the said appeal by the Tribunal which occurred subsequent to the commencement of the trial of the suit.

Therefore, the proposed amendment is not hit by the restriction contemplated under the proviso appended to Order VI Rule 17 of the Code.

No doubt the order impugned does not disclose any reason but the conclusion being correct this Court is not inclined to interfere with the order impugned.

The plaintiff since has already tendered his evidences-in-chief, leave is granted to the plaintiff to file additional evidences-in-chief covering the amended portion of the written statement within a period of two weeks from date.

The suit is pending since 2007, the learned Trial Judge is requested to expedite the hearing of the suit and to make all endeavour to conclude the same within a period of six months from the date of communication of this order and in doing so shall not entertain the prayer of the parties for any unnecessary adjournment.

CO 1025 of 2020 is disposed of with the above terms.

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.)