

09.04.2021
(S/L-07)
Ct.-18
(Susanta)

(Via Video Conference)

C.O. 671 of 2021

Sri Pradip Jaiswal @ Pradeep Kumar Jaiswal
-Vs-
Sri Pradip Nandy

Mr. Debjit Mukherjee,
Ms. Susmita Chatterjee,
..... For the Petitioner.

Mr. Jaynata Das,
Mr. Susmita Ghosh,
..... For the Opposite Party.

The revisional application under Article 227 of the Constitution of India is at the instance of the defendant/tenant in a suit for eviction and is directed against order No. 52 dated February 24, 2021 passed by the 4th Court of Learned Civil Judge (Junior Division), Howrah in Title Suit No. 163 of 2012.

The learned Trial Judge by the order impugned has dismissed an application filed by the defendant seeking amendment of his written statement on the ground that his earlier application seeking similar amendment of written statement was dismissed in revision by this Court.

Mr. Debjit Mukherjee, learned advocate appearing on behalf of the petitioner submits that the petitioner is seeking amendment of the

written statement to incorporate some facts which came to his knowledge during the cross-examination of the plaintiff, therefore, the learned Trial Judge is not correct in holding that the petitioner sought similar amendment earlier. He further submits that the petitioner by the proposed amendment is seeking to elaborate his defence in the suit that the notice to quit was not served upon him, the said defence being crucial should be allowed to be incorporated in the written statement.

On perusal of the written statement it appears that the defendant has already denied the service of notice to quit upon him as such it is open to him to bring any evidence on record suitable to his such defence.

That being the position amendment of written statement to elaborate his said defence is not necessary.

The order impugned for the aforesaid reason does not call for interference.

C.O. 671 2021 is disposed of with the above observations without any order as to 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.)