

27th July,
2021
(AK)
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C.O. 1302 of 2021

**Sri Somnath Dey
Vs.
Sri Mintu Mondal and others**

(Via video conference)

Mr. Satrajit Sinha Ray
...For the Petitioner.

Learned counsel for the petitioner contends that the trial court acted without jurisdiction in granting liberty to file a fresh amendment application to the defendants/opposite parties on the ground that there was a technical defect in the currently-filed amendment application.

Learned counsel argues that the amendment was brought at an extremely belated stage, near the completion of the evidence of the parties and, as such, in the absence of any sufficient cause for the delay having been shown, the same ought to have been rejected outright.

Learned counsel places reliance on several judgments. It was held in *State of Bihar and others Vs. Modern Tent House and another* reported at (2017) 8 *Supreme Court Cases* 567, that the amendment was sought in the said case to seek elaboration of the original

pleadings of the written statement and, as such, ought to have been allowed.

Learned counsel submits that in the present case, the amendment proposed, not being a mere elaboration of the original stand taken by the defendants/opposite parties, ought not to be allowed.

Learned counsel also places reliance on *Naresh Kumar Vs. Meer Singh (Dead) Thr Lrs*, reported at 2020 SCC Online Del 398, wherein a learned Single Judge of the Delhi High Court was pleased to hold that a belated amendment of the written statement, as filed therein, was hopelessly barred and hit by the proviso to Order VI Rule 17 of the Code of Civil Procedure.

However, the propositions laid down in the said reports are not applicable to the present case. As far as the Supreme Court judgment is concerned, the same pertains to a different factual matrix, which is not identical with the present case inasmuch as in the said case, the proposed amendment was sought to elaborate the original pleadings whereas in the present case, the amendment is sought to introduce alleged subsequent events.

Even the ratio laid down in the judgment of the Delhi High Court is not applicable to the present case, since the amendment, although belated, sought to introduce certain subsequent events which, according to

the defendants, took place immediately prior to filing of the amendment application.

That apart, in the present suit filed by the petitioner for eviction on the ground, inter-alia, of reasonable requirement, the actual requirement of the landlord as on the date of passing of the decree is of utmost importance.

Since the amendment proposed by the defendants would bring such alleged subsequent events on record, there was no irregularity in the trial court granting the defendants/opposite parties liberty to file a fresh amendment application after curing the defects in the present application. Hence, there is no substance in the revisional application.

Accordingly, C.O. 1302 of 2021 is dismissed, thereby affirming Order No. 45 dated July 13, 2021 passed by the Civil Judge (Junior Division) First Court at Katwa in Title Suit No. 80 of 2016.

There will be no order as to costs.

Urgent website certified copies of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Sabyasachi Bhattacharyya, J.)