

23-12-2021

Ct.21

D/L 73 &

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C.O. 1899 of 2021

With

C.O. 1900 of 2021

Md. Sayeed Since Deceased Leaving His Substituted Heirs
Hasna Bana & Ors.

Versus

Md. Amiruzzaman & Anr.

(VIA VIDEO CONFERENCE)

Ms. Kaberi Sengupta,

Mr. Arun Kumar Sengupta,

Ms. Madhurima Chakraborty

...for the Petitioners

Mr. Parvez Hossain,

Md. Shamsheer Ahmed,

Mr. Arun Kr. Das

...for the Opposite Parties

The petitioners file two supplementary affidavits
along with Xerox copy of lease deeds standing in the
name of opposite party no.1.

Being aggrieved by the order of rejection of
amendment of Written Statement filed by the
defendants/petitioners in Title Suit No. 62 of 1978 /
Title Suit No. 190 of 1978, by learned Civil Judge
(Junior Division), 1st Court, Sealdah on 18.09.2021,
the defendants have preferred this application under
Article 227 of the Constitution of India.

The plaintiffs/opposite parties being the owners
/landlords have filed an Eviction Suit against the
defendants/petitioners on the ground of reasonable
requirement and on other grounds way back in the
year 1978. That after completion of examination of
witnesses and when suit was fixed for hearing
argument, the defendants have filed the impugned

amendment petition alleging that during pendency of the suit plaintiffs/landlords have purchased another residential house in New Town and acquired an alternative accommodation and want such facts to be inserted in the Written Statement. However, learned Court below rejected such amendment petition with the finding that the defendants have failed to substantiate their claim by producing documents.

The defendants by filing supplementary affidavits along with the Xerox copy of lease deeds of the plaintiffs dated 09.04.2009 this day try to remove the defect pointed out by the learned Court below while rejecting the amendment petition.

It is true amendment can be allowed at any stage but the defendants have to prove that in spite of due diligence they could not raise the matter before trial, during trial and immediate after completion of trial. The alleged lease deed of the defendant no. 1 appears to be of 2009 executed almost eleven years prior to the filling of the amendment application. Further, this Court finds the original Eviction Suit to be of 1978 and the plaintiffs/landlords have not been able to get the suit finally heard even after lapse of 43 years. The defendants have come with the amendment petition when the case is at its final stage and wanted to insert a fact which took place eleven years ago. This Court is of view the defendants who are facing eviction in order

protract the case for infinite period has come with the amendment petition and that too when the case is ready for argument. First in the lower Court they did not produce the copy of deeds which they have filed before this Court today.

More so, this Court does not find any whisper in the amendment petition that in spite of due diligence the defendants could not produce the lease deed of plaintiff no. 1 or had no knowledge about the same.

Keeping in view the above facts this Court finds no illegality or irregularity in the impugned order passed by the learned Court below.

The revisional applications are dismissed.

Accordingly **C.O. 1899 of 2021 and C.O. 1900 of 2021 are dismissed.**

Connected application, if any, is disposed of.

Interim order, if any, stands discharged.

All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

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

(Kesang Doma Bhutia, J.)