

06.06.2022  
Item No.2  
Ct. No.7  
CHC  
(disposed of)

**C.O.988 of 2022**

**Kudbain Safi**  
**Vs.**  
**Sri Deep Chand Saha**

Mrs. Baisali Ghoshal  
...for the petitioner

The subject-matter of challenge in this revisional application is against the rejection of prayer filed by the petitioner/defendant seeking leave to file additional written statement.

Admittedly, the suit is at the peremptory stage, wherein the learned court below is under the process of collection of evidence being adduced by the plaintiff.

Mrs. Baisali Ghoshal, learned advocate appearing for the petitioner/defendant submits that though in paragraph-‘5’ of the written statement, filed by the petitioner/defendant, the petitioner has controverted the alleged sale deed, said to have been executed on Sultan Arif @ Babu Mia in favour of Suren Sharma narrating the facts required therefor, but in so many words, the documents being relied upon by the plaintiff as referred hereinabove, could not be expressly challenged.

Since it was not challenged in express words, though the existence of the document has been

fundamentally controverted in paragraph-‘5’ of the written statement, a necessity there arose to seek leave from the court to file additional written statement in order to put up effective defence of the defendant/petitioner, as disclosed in the written statement.

Without any controversy, this is not the position that petitioner has sought for amendment of the written statement. This is also not the case to furnish better particulars of written statement for better elucidation of the defence, already disclosed in written statement.

When the court is going through the stage of collecting evidence of plaintiff, and the defendant had the occasion to cross-examine P.W.1 extensively to controvert the document, referred hereinabove, the Court is of the view that necessary cross-examination of the witnesses, to be examined by the plaintiff, in context with the averment disclosed in paragraph-‘5’ of the written statement would, however, ensure the probable defence of the petitioner/defendant set up for the purpose, in deciding the matter in controversy between the parties.

Liberty is thus given to petitioner to go for cross-examination of the witnesses, examined by the plaintiff, in terms of the defence already disclosed in paragraph-‘5’ of the written statement, particularly

pertaining to the referred deed mentioned hereinabove so as to ensure defence of the petitioner as against the claim of the plaintiff.

It is gathered knowledge that evidence of P.W.1 has not yet been completed, and it is lying deferred for further cross-examination of P.W.1.

That being the position, no prior notice is considered to be necessary upon the opposite party.

Service upon the opposite party accordingly stands dispensed with.

The instant revisional application is thus disposed of giving liberty to the petitioner/defendant to cross-examine the P.W.1, and other witnesses, if any to be examined by the plaintiff so as to ensure defence in the perspective of averment disclosed in paragraph-‘5’ of the written statement.

Petitioner is directed to make communication of this order to the learned court below as well as to the opposite party and his advocate in the court below.

With this observation/direction, the revisional application stands disposed of.

Urgent certified photostat copy of this order, if applied for, be given to the parties as expeditiously as possible on compliance of all necessary formalities.

**(Subhasis Dasgupta, J.)**