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C.O. 1678 of 2022

**Anant Maskara
Vs
Shree Hanuman Jute Press Pvt Ltd.**

Ms. Shebatee Datta,
Ms. Poulami Roy, ... For the petitioner.

Mr. Abhishek Banerjee, ... For the opposite party.

The subject matter of challenge in this revisional application is against the rejection of a prayer for amendment of written statement filed by the petitioner/defendant.

Admittedly, this is a suit for eviction instituted by the opposite party/plaintiff against the petitioner/defendant.

Adverting to proposed schedule of amendment, Ms Shebatee Datta, learned advocate appearing for the petitioner submits that the proposed amendment is nothing, but it is purely explanatory one, in respect of the defence already set up in the written statement.

Upon referring some averments taken in the written statement, it is submitted by Ms. Datta that the proposed amendment will not change the nature and character of the suit.

Per contra, Mr. Abhishek Banerjee, learned advocate appearing for the plaintiff/opposite party submits that in the written statement filed by the

petitioner/defendant, there has been no single statement disclosed disputing with the relationship between the parties.

It is thus contended by the opposite party that in the event of proposed amendment being allowed, pending decision of Section 7(2) application, the plaintiff may suffer serious prejudice, as admission already made in written statement has been sought to be withdrawn.

It is thus alternatively proposed by the opposite party that the instant prayer for proposed amendment should not be considered by the Court below, pending decision of application under Section 7(2) of the WBPT Act.

Having considered the submission of both sides, it appears that the relationship between the parties has been disputed in an application under Section 7(2) of the WBPT Act filed by the petitioner/defendant, which is pending for hearing before the Court below.

Upon perusal of the averments disclosed in the written statement, it appears that though there has been evasive denial taken in the written statement, but it is purely a written statement based on denial against assertion made by petitioner contain in the plaint.

When application under Section 7(2) of the WBPT Act is pending for decision before the Court

below, wherein there has been a dispute raised challenging the relationship between the parties, this Court is of the view that proposed amendment will not bring about any change in the nature and character of the suit.

The revisional application is thus disposed of upon setting aside the order dated 10th May, 2022 passed by learned Civil Judge (Junior Division), 5th Court, Howrah in Title Suit No. 113 of 2013.

The proposed amendment of written statement be allowed.

Learned Court below is directed to incorporate necessary corrections in the written statement, already filed by the petitioner, with a further direction upon the petitioner to furnish amended copy of written statement, upon supplying a copy of the same well in advance to the learned advocate for the opposite party/plaintiff, within a fortnight from the date of this order.

Upon accepting the amended copy of written statement, the Court below will proceed to dispose of the suit in accordance with the law after adhering to the provisions of the law.

It is, however, clarified that petition under Section 7(2) of the WBPT Act needs to be decided independently giving opportunity of hearing to both the parties.

Parties are directed to make communication of this order to the learned Court below.

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

Urgent photostat certified copy of the order, if applied for, be given to the parties on usual undertakings.

(Subhasis Dasgupta, J)