

22.09.2022
Item No.8
Ct. No.7
CHC
(disposed of)

C.O.2089 of 2022

Sri Partha Sarathi Bhowmick
Vs.
Sri Bhagaban Das Kosta & ors.

Mr. Sourav Sen,
Mr. Triptimoy Talukder,
Mr. Sibendranath Sil,
Mr. Abhiraj Tarafdar
...for the petitioner

Mr. Sukanta Chakraborty,
Mr. Anindya Halder
...for the opposite party
nos.1 and 3

Rejection of a prayer for furnishing additional written statement to incorporate the subsequent development, in the written statement is under challenge in this case.

Mr. Sen, learned advocate appearing for the petitioner taking resort to the provisions of Order 8 Rule 9 C.P.C. submits that even after the pleadings being completed, the defendant is authorised under the statute to modify the written statement to incorporate subsequent event, taken place after filing of the written statement.

It is thus submitted by Mr. Sen that there has been no adequate exercise of discretion, what is supposed to be made by the court below, while making rejection of the prayer under Order 8 Rule 9 C.P.C..

Mr. Chakraborty, learned advocate appearing for the opposite party nos.1 and 3 adverting to order dated 18th February, 2019, passed in C.O.2961 of 2018, submits that this Court was not prepared to accept the petitioner, as tenant, as there was no relationship between them.

Mr. Chakraborty submits that an application under Section 7(2) of the W.B.P.T. Act has already been disposed of holding that there is no relationship between the parties. The evidence of the parties has already been concluded, and if the petition is allowed at this stage upon exercising discretion, that will be purely against the sanction of the law.

Mr. Sen frankly submits in his all fairness that the evidence has already been concluded.

In a situation like this, it would be not wise to consider the prayer for furnishing additional information by way of Order 8 Rule 9 C.P.C.

Upon perusal of the impugned order, there is hardly any reason to interfere with the same. The impugned order does not require any interference.

The revisional application stands disposed of. However, petitioner is at liberty to agitate this point at the time of final hearing of the suit taking recourse to the point disclosed in paragraph-‘2’ of petition furnished by the petitioner, and if any such point is

taken, that shall be duly addressed to by the court below, and dispose of the same in accordance with law.

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