

**CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
APPELLATE SIDE**

**16.09.2022
Crt. No.1.
K.B.
Item No.9.**

C.O. 111 of 2022

***Smt. Alpana Ghosh & Ors.*
-Vs.-
*Smt. Debjani Lodh & Anr.***

**Mr. Bapi Sarkar
.....For the petitioners.**

**Mr. Bijay Bikram Das
.....For the Opposie Party.**

Mr. Sarkar, Learned Advocate, appears
for the petitioners.

This is an application under Article
227 of the Constitution of India challenging
the impugned Order No. 62 dated 14th June,
2022 passed by the Learned Civil Court,
Senior Division at Siliguri.

By the said impugned Order, the
Learned Trial Court was pleased to reject the
prayer of the defendants/the present
petitioners to amend the written statement.

The ground for rejection as held by the Learned Trial Court is that the defendants were allowed to amend the written statement originally on the 24th of March, 2021 and, as on the 14th of June, 2022, a period of one year has already elapsed.

Furthermore, the Learned Trial Court was pleased to hold that the defendants were permitted to amend the written statement by the Order of 24th of March, 2021 upon payment of cost. However, as on the 14th of June, 2022, such cost had not been paid.

In view of the aforesaid position of facts, the Learned Trial Court was pleased not to entertain the prayer of the defendants to file the amended written statement.

Mr. Sarkar argues that the defendants shall suffer irretrievable prejudice in the event opportunity is not extended to amend the written statement.

It is submitted that due to the intervening circumstances arising out of the Covid-19 pandemic as well as the personal

difficulties of the Leaned Advocate for the defendants, inspite of best intentions of the defendants, the terms of the Order dated 24th March, 2021 could not be complied with.

Mr. Das, Learned Advocate appearing for the plaintiffs/opposite parties, submits that between 24th of March, 2021 and the 14th of June, 2022, there were several dates when the matter appeared before the Learned Trial Court.

Such dates were 21st of May, 2021, 16th of September, 2021, 7th of December, 2021 and lastly the 13th of April, 2022.

On all of the said dates between 24th of March, 2021 and the 14th of June, 2022, the defendants did not takes steps to file the amended written statement and Learned Counsel for the opposite parties/plaintiffs points out that two dates, i.e. on 16th of September, 2021 and the 14th of June, 2022, the defendants took the plea respectively for their inability to file the amended written

statement on the ground of the illness of one of the defendants and secondly on the ground that the defendants were out of station.

Evidence of such plea taken by the defendants on the aforesaid two dates is produced before this Court by Learned Advocate for the opposite parties/plaintiffs and the same be retained with the record.

Heard.

Considered.

This Court, upon a close reading of the materials placed, is persuaded to hold that the petitioners/defendants have been unable to make out a persuasive case for being permitted to amend the written statement.

Accordingly, the Order impugned of the Learned Civil Court, Senior Division, at Siliguri requires no intervention.

C.O. 111 of 2022 stands thus **dismissed.**

All parties shall act in terms of the copy of the order downloaded from the official website of this Court.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties on compliance of necessary formalities.

(Subrata Talukdar, J.)