

In the High Court at Calcutta
(Civil Revisional Jurisdiction)
Appellate side

S/L No. 5
10.04.2023
Ct-237
(RD)

C.O. 133 of 2023

**Rajesh Rajak & Ors
Vs.
Ram Manohar Pashi**

Mr. Pinaki Ranjan Mitra, Adv.

.... For the petitioner

Mr. Debjit Mukherjee, Adv.
Ms. Susmita Chatterjee, Adv.
Ms. Dipanwita Ganguly, Adv.
Mr. Kaustav Bhattacharya, Adv.
Ms. Sinjini Chakraborty, Adv.

... For the opposite party.

This revision application has been filed challenging the order no. 46 dated 12.12.2022 passed by Learned Civil Judge (Junior Division) Second Court, Howrah in connection with Title Suit no. 1886 of 2015 whereby learned Judge disallow the prayer for amendment of written statement under Order 6 Rule 17 of the Civil Procedure Code.

Learned Advocate, Mr. Pinaki Ranjan Mitra, appearing in behalf petitioner/defendant that the fact of proposed amendment came to the knowledge of defendant during cross-examination of PW1 in a suit for eviction. Thereby Mr. Mitra has submitted that plaintiff falsely represented himself as owner of the subject

property.

Learned Advocate, Mr. Debjit Mukherjee Opposite party/ plaintiff has referred to the written objection to the application under Order 6 Rule 17 of the Civil Procedure Code and submitted that on 12.04.2018 defendant filed an application challenging the title of the plaintiff by dint of register deed and said application was rejected and that order remained unchallenged. Thereafter, on 23.02.2022 defendant filed examination in chief on 23.02.2022 and on the same day cross-examination of plaintiff was completed.

According to Mr. Mukhejee withdrawal of admission made in the written statement cannot be allowed to be amended and moreover the deed by which the defendant raised the issue of title was rejected but that was not challenged before any higher forum.

After careful perusal of the entire facts and circumstances I find the following facts:-

- a. Defendants admitted the relation \ship of landlord and tenant by his written statement
- b. In spite of having knowledge of the facts of the proposed amendment, in the year 2018 but application for amendment was filed in the year 2022, at the belated stage.
- c. The amendment application was filed after commencement of trial.

On careful scrutiny of the order impugned, I do not find either any illegality or infirmity to invoke the Provision of Article 227 of the Constitution of India.

With the aforesaid observation the revision application being No. CO 133 of 2023 stand disposed of.

Let a copy of this order be communicated to the Learned Civil Judge, Junior Division, 2th Court, Howrah.

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

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

(Bibhas Ranjan De)