

12.12.2023
Sl. No.22(DL)
srm

C.O. No. 1014 of 2023
Sri Satyendranath Sett
Versus
Sri Tarak Nath Mukherjee & Anr.

Mr. Animesh Paul
...for the Petitioner.

Mr. Souvik Das
...for the Opposite Parties.

The revisional application is directed against an order dated February 23, 2023 passed by the learned Civil Judge (Junior Division), 3rd Court at Howrah, in Title Suit No.1002 of 2022.

By the order impugned, the learned court below rejected two applications for amendment, filed in connection with the applications under Sections 7(1) and 7(2) of the West Bengal Premises Tenancy Act, 1997 (hereinafter referred to as the said Act). Such application for amendment was filed on September 17, 2022. The learned court was of the view that amendments of the applications under Sections 7(1) and 7(2) of the said Act, could not be allowed as those were interlocutory applications. Only the plaint and the written statement, could be amended.

Mr. Das, learned Advocate for the opposite parties/plaintiffs submits that the amendment sought for was in the nature of filling up the lacuna, especially the factum of default. According to Mr. Das, the schedule of amendment indicates that the tenant was, in effect, trying to cover up the non-compliance of the provisions of the Section 7 of the said Act. The amendment would grant unnecessary advantage to the tenant.

This Court is of the view that there has been erroneous exercise of jurisdiction, inasmuch as, provisions of the Code of Civil Procedure which are applicable to suits are also applicable to interlocutory applications.

In my opinion, the merits of the amendment are not to be looked into. The amendment is in the nature of elaboration of the facts which have been stated. The correctness of such statements will be decided at the time of hearing of the applications and the learned court below will decide the matter on the settled principles of law governing the provisions of law and the scope and ambit of Section 7 of the said Act.

Thus, the applications for amendment of the applications under Section 7(1) and 7(2) of the said Act are allowed. The amended applications will be filed within two

weeks from date. Copy of the amended applications be served upon the plaintiffs. The plaintiffs shall file the re-joinder to the said amended applications within two weeks from the date of receipt of a copy thereof. Thereafter, the applications under Sections 7(1) and 7(2) of the said Act shall be decided within a month.

The learned court shall proceed independently.

The revisional application is, thus, disposed of.

The municipality will act and perform its duties as per law.

There shall be no order as to costs.

Parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)