

Item No.3
20.12.2023
Court. No. 19
GB

C.O.1793 of 2023

Rajendra Nagar Library
VS
Rajendra Nagar Cooperative Housing Society Limited

Mr. Supratik Basu,
Mr. Shuvam Shaw

...for the Petitioner.

The revisional application arises out of an order dated April 24, 2023, passed by the learned Civil Judge (Senior Division), Serampore in Title Appeal No.3 of 2018. The title appeal arose out of a judgment and decree passed by the learned Civil Judge (Junior Division), 1st Court at Serampore in Title Suit No.4381 of 2014.

The petitioner is the appellant before the learned court and the judgment debtor. In a suit for eviction of licensee, the petitioner suffered a decree. An appeal was preferred. During the pendency of the appeal, the petitioner wanted to amend the written statement filed in the suit, by incorporating certain facts.

According to the petitioner, those facts were relevant for proper and effective determination of the dispute. The subsequent events which took place during the pendency of the appeal were required to be brought on record for proper adjudication of the issues. The learned court, upon perusal of the nature of amendment sought to be made, rejected the said application on the ground that the relevance of such statements could not be proved in the appeal.

The petitioner wanted to incorporate the fact that the President of Rajendra Nagar Library, sent a letter in the form of an application, with the names of the managing committee along with income and expenditure, statement of accounts. They were sent to the District Social Education Officer, Chinsurah, Hooghly, for sanction of ad hoc grant, towards purchase of books for the library. The copy of the letter was also sent to the Director of Public Instructions, West Bengal, Writers' Building, for necessary information. Further fact with regard to the sanction of the amount/grant-in-aid, etc., were sought to be incorporated by the amendment. The suit is for eviction of the library which is a society registered under the Societies Registration Act, 1860, on the ground of revocation of the license. Such suit was decreed on contested hearing.

In my view, the amendment sought to be incorporated in the written statement with regard to the grant-in-aid and the sanction of money for purchase of books for the library, are irrelevant considerations for adjudication of the title appeal. The title appeal will be decided on the merits of the judgment and decree by which the learned trial judge had allowed eviction on the grounds stated therein. The sanction of funds for the library would not in any way affect the merits of the appeal.

Under such circumstances, incorporation of such facts are absolutely unnecessary for proper adjudication of the dispute between the parties. The defendant has filed a frivolous application, which was rightly rejected.

Under such circumstances, the revisional application is dismissed.

The order of the learned lower appellate court is upheld.

However, there shall be no order as to costs.

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

(Shampa Sarkar, J.)