

October 3, 2023
Sl. No.34
Court No.19
s.biswas

CO 1861 of 2023

Shankar Sahana
vs.
Gobindapada Sing

Mr. G. F. Hossain
Ms. Varsha Roy
Mr. Chandra Paul
Ms. Priyanka Mondal

... for the petitioner

This court does not find any reason to interfere with the order impugned dated April 5, 2023, passed by the learned Civil Judge (Junior Division), Additional Court, Chandannagar, Hooghly, in title Suit No.362 of 2019.

The suit is for declaration of tenancy. In paragraph 4 of the plaint, it has been mentioned that the mother was the original tenant and after the mother died, the plaintiff became a tenant in the suit premises on similar terms and conditions, at a monthly rent of Rs.100/- per month payable according to Bengali calendar year. It has been also averred that from the said premises, the plaintiff was running a tailoring business under the name and style of 'Society Tailors'. The tenancy was in respect of a pucca room in the ground floor of a two storied building. As per the plaint, the cause of action arose on December 12, 2019, when the defendant refused to accept the rent from the petitioner. The petitioner prayed for declaration that he was a monthly tenant

in respect of the suit premises under the defendant. Further prayer for permanent injunction was also made. By the amendment, the plaintiff sought to incorporate a statement with regard to an oral tenancy agreement entered into between the plaintiff and the defendant.

When, the petitioner has already mentioned that the petitioner became a tenant under the defendants, further mention of the oral agreement is not necessary. The tenancy, will have to be proved by evidence. The factum of the oral agreement can also be proved by leading evidence. Moreover, the defendant would be prejudiced if such amendment is allowed, when the suit is at the peremptory hearing stage.

The revisional application is dismissed accordingly.

All the parties are directed to act on the basis of the server copy of the order.

Urgent Photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Shampa Sarkar, J.)