

20.12.2023
Court No. 19
Item no.281
CP

C.O. No. 2443 of 2023

Subrata Mitra & Anr.

Vs.

Smt. Kaushalya Jain & Ors.

Ms. Shebatee Datta

.....for the petitioners.

Mr. Mrinal Das

Ms. Nisha Das

Ms. Ruksar Parveen

.....for the defendants/opposite parties.

The revisional application has been filed challenging an order dated June 2, 2023, passed by the learned Civil Judge (Junior Division), 1st Additional Court, Alipore in Title Suit No. 7 of 1998.

By the order impugned, the learned court below rejected an application for amendment of the plaint. The ground for rejection was that the suit was barred under the proviso to Order 6 Rule 17 of the Code of Civil Procedure.

Learned advocate for the petitioner submits that the suit was filed in 1998 and thus being a pre-amendment suit, the same would not be hit by the proviso to Order 6 Rule 17 of the Code of Civil Procedure. It is further submitted that the facts sought to be incorporated were subsequent events, i.e., the change in requirement of the plaintiffs in respect of the suit premises.

This is a suit for eviction, inter alia, on the ground of reasonable requirement.

Learned advocate for the opposite parties/tenants submits that the suit is at the stage of trial and is near completion.

Having heard learned counsel for the respective parties, this court finds that the suit is of 1998 and the ground for rejection of the amendment application is not tenable in law. Moreover, subsequent events with regard to change of reasonable requirement of the plaintiffs is required to be incorporated for a complete adjudication of the dispute. Introduction of such facts which occurred during the pendency of the suit, does not change the nature and character of the suit.

It also does not amount to withdrawal of any admission made in the plaint or introduction of inconsistent pleas.

Under such circumstances, the revisional application is allowed.

The amendment application is allowed. The petitioner is directed to file the amended plaint within a period of four weeks from the date of communication of this order. Additional written statement be filed by the opposite parties within a period of two weeks thereafter.

The suit shall continue expeditiously. If the parties wish to adduce further evidence due to incorporation of new facts, the parties shall be at liberty to do so.

Needless to mention, the suit should be disposed of within the next six months.

The revisional application is accordingly disposed of.

There shall be no order as to costs.

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

(Shampa Sarkar, J.)