

20.09.2023
Item No.ADSL 2
RP
Ct. No.7

CO 3170 of 2023

**Mr. Hamed Hossin
Vs.
Sri Deb Narayan Panday**

Mr. Rahul Karmakar
Mr. Sounak Mukherjee
... for Petitioner

Mr. Vinay Kumar Purohit
... for Opposite Party

1. The learned advocate for the petitioner mentioned this matter at the first sitting of the Court citing grave urgency. Accordingly this matter was directed to be listed in the supplementary list to be taken up today at 2 P.M.
2. Affidavit-of-service filed in Court today be kept on record.
3. The defendant/petitioner has challenged the order No.32 dated August 25, 2023 passed by the learned Judge, 2nd Bench, Presidency Small Causes Court at Calcutta in Ejectment Suit No.106 of 2022. By the order impugned the prayer for extension of time to file the amended written statement was rejected. By the selfsame order the evidence of PW 1 was closed and a date was fixed for evidence of DW.
4. Mr. Karmakar, learned advocate representing the petitioner submits that the learned trial Judge after

rejecting the prayer for adjournment of the petitioner on the ground of pendency of civil order no.2995 of 2023 directed the cross-examination of PW-1 as closed. This Court by order dated 20th September, 2023 has already dismissed the said civil order.

5. After hearing the learned advocate for the parties and perusing the materials on record, this Court is of the considered view that the ends of justice would be subserved if the defendant is allowed to file the amended written statement within a certain time and the defendants are afforded an opportunity to cross-examine the PW 1. This Court therefore directs the petitioner to file the amended written statement on or before September 29, 2023. This Court finds that the learned trial Judge rejected the prayer for adjournment made by the defendant on the ground of pendency of civil revisional application before this Court. Since the said Civil Order has already been dismissed by an order passed on 20.09.2023, this Court is of the view that the defendant should be afforded an opportunity to cross-examine the PW-1.
6. The order impugned calls for interference and the same is set aside. The parties will be at liberty to approach the learned trial Judge for fixing the next date for evidence of PW 1/cross-examination of PW

1, as the case may be, after a week from the date fixed by this Court for filing the amended written statement by the defendant..

7. With the above observation and direction, the civil order stands disposed of. There shall, however, be no order as to costs.
8. Urgent Photostat certified copy of this order, if applied for, be delivered to the learned advocate for the parties, upon compliance of all formalities.

(HIRANMAY BHATTACHARYYA, J.)