

31.07.2024
Item No.06, DL
Ct.19
A.J.

**IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION**

C.O. 2026 of 2024

Smt. Sanjukta Dam & Anr.

-Vs-

Smt. Sarmistha Acharjee & Anr.

Mr. Rahul Kumar Singh.

.....for the petitioners.

Certified copy of the order impugned and the affidavits of service filed on behalf of the petitioners be kept with the record.

Despite repeated services, the opposite parties chose not to appear; under such circumstances, instead of extending the interim order for which the matter has been brought to the list, on the prayer of the learned advocate for the petitioners, the revisional application is taken up for final disposal.

The order dated May 07, 2024 passed by the 3rd Court of the learned Civil Judge (Junior Division) at Alipore, District: 24-Parganas (South) in *Ejectment Suit No. 41 of 2014* is under challenge.

The learned Trial Judge by the order impugned has dismissed the application filed by the plaintiffs, the petitioners herein, praying amendment of the plaint on the ground that such amendments have been sought for to fill up the lacuna.

The Plaintiff No.2, in the month of December, 2022 was detected to have lumbar spine degenerative-disc disease and was advised by the doctors not to use stairs, as such, according to the plaintiffs, the requirement of the suit-flat, since it is in the ground floor, has increased.

The amendment sought for is for the purpose of qualifying the ground of reasonable requirement, not to fill

up the lacuna, besides, the facts of the proposed amendment are based on events happened subsequent to commencement of trial of the suit, as such, the proviso appended to the Order VI Rule 17 of the Code of Civil Procedure also cannot be a bar in allowing the said amendment.

The order impugned is, therefore, set aside.

The application for amendment filed by the plaintiffs is allowed.

The plaintiffs are required to file amended plaint **within a period of two weeks from date.**

The defendants are at liberty to file additional written statement within a period of two weeks from the date of receipt of a copy of the amended plaint.

The suit is pending since 2012, therefore, the learned Trial Judge is requested to expedite the disposal of it.

C.O. 2026 of 2024 is allowed without the above observations without any order as to costs.

Parties to act on the server copy of this order duly downloaded from the official *website* of this Court.

Urgent photostat certified copies of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)