

02.04.2024
Ct. No. 19
Sl. No. 52
Cp

C.O. No. 4351 of 2023

Sri Hemanta Kumar Jaiswal
Vs.
Sri Sankar Thakur

Ms. Dipanwita Ganguly
....for the petitioner.

The revisional application arises out of an order dated September 14, 2023, passed by the learned Civil Judge (Junior Division), 1st Court, Chandernagore, Hooghly in Title Suit No. 215 of 2011.

By the order impugned, the learned court rejected an application for incorporation of certain facts with regard to a partition suit between the landlord and other co-sharers. The petitioner wants to incorporate such facts in order to bring on record the other co-sharers on the ground that the eviction suit was not maintainable at the instance of the landlord.

In my opinion, the amendment at the stage of evidence is not relevant for adjudication of the suit as the tenant cannot question the title of the landlord. The presumption is that an eviction suit by one co-sharer is maintainable on behalf of all co-sharers. However, if it is the petitioner's contention that the suit was not authorized by the other co-sharers, the remedy of the

tenant would be to adduce evidence through the other co-sharers in this behalf and not by either amending the written statement or adding the other co-sharers as parties to the litigation.

The revisional application is, thus, disposed of.

The contention of the petitioner that unless the amendment was allowed, the other co-sharers would not be able to participate in the proceeding and could not be impleaded in the proceeding, is not accepted for the reasons assigned above.

There shall be no order as to costs.

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

(Shampa Sarkar, J.)