

Court No. 6
(265719)

27.03.2025
(AD 71)
(S. Banerjee)

CO 203 of 2025

Bahadur Rajak
Vs.
Rabindra Nath Ghosh

Mr. Amit Baran Dash
Mr. Kaushik Chandra Gupta
Ms. Ankana Sarkar

...for the petitioner

Ms. Ritoprita Ghosh

...for the opposite party

This application under Article 227 of the Constitution of India is at the instance of the defendant and is directed against an order No. 78 dated December 5, 2024 passed by the learned Civil Judge (Jr. Division), 1st Court at Serampore, Hooghly in Title Suit No. 223 of 2020. By the order impugned the application for amendment of the written statement stood rejected.

The opposite party herein filed a suit for eviction under Section 6 of the West Bengal Premises Tenancy Act, 1997 inter alia on the ground of reasonable requirement.

The petitioner is contesting the said suit by filing a written statement. The petitioner filed an application under Order 6 rule 17 of the Code of Civil

Procedure praying for amendment of the written statement. Such an application was filed after the closure of evidence of the plaintiff's witness.

Learned advocate for the petitioner submits that the petitioner has come to know about the fact that the opposite party has acquired several proprieties in the meantime and, therefore, has alternative suitable accommodation. In order to provide better particulars of the facts which was already stated in the written statement, the petitioner filed an application for amendment of the written statement.

After going through the written statement this Court finds that it has been specifically stated that the plaintiff purchased many other properties and shop-rooms just near and beside the alleged suit property but the said purchased properties of the plaintiffs are all closed and, therefore, the plaintiff and other members of the plaintiff have sufficient accommodation to start the business.

After going through the application for amendment of plaint this Court finds that it has not been stated as to when the petitioner has acquired the knowledge of the alternative accommodation which the petitioner is now seeking to introduce by way of amendment. That apart, the petitioner has already stated in written statement that the plaintiff

has alternative suitable accommodation and it is for the plaintiff to prove that they do not have any alternative reasonable suitable accommodation in their possession in order to get a decree for eviction on the ground of reasonable requirement.

Since the application for amendment was filed after the commencement of trial and the petitioner has not stated as to why such application was not filed prior to the commencement of trial, this Court is of the considered view that proviso to Order 6 rule 17 of the Code of Civil Procedure stands attracted to the case in hand. the learned trial Judge was right in rejecting the prayer for amendment of the written statement.

For such reasons this Court is not inclined to interfere with the order impugned. CO 203 of 2025 stands dismissed without, however, any order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of requisite formalities.

(Hiranmay Bhattacharyya, J.)