

Sl.18
22.04.2025
Court No.6
BP

C.O. 1268 of 2025

Swapna Das alias Aparna Das & Anr.
-versus-
Mrs. Madhu Tiwary

Mr. Tapas Kumar Manna
.. for the petitioners

This application under Article 227 of the Constitution of India is at the instance of the defendant and is directed against an order dated May 13, 2024 passed by the learned 2nd Judge at Presidency Small Causes Court at Calcutta in Ejectment Suit No. 56 of 2017. By the order impugned the application for amendment of written statement stood rejected.

The learned advocate appearing for the petitioners submits that at the stage of cross-examination of the plaintiff's witness the defendants came to know that the opposite parties herein are not owners of the suit property and the deed by virtue of which they are claiming right, title and interest in the suit property is a false, forged and fabricated one.

He submits that such fact is necessary for the purpose of deciding the real controversy between the parties. He further submits that since the said facts came to the knowledge of the petitioners at a subsequent stage,

the prayer for amendment can be allowed even after commencement of trial.

This Court finds that the opposite parties have filed a suit for ejectment under the provisions of Section 6(1) of the West Bengal Premises Tenancy Act, 1997. In the plaint of the said suit the opposite parties herein have stated specifically as to how they became owner of the suit property.

The petitioners herein have filed this application for amendment for bringing on record the steps taken by the petitioners herein starting from the fact of the granting of probate to the will in Probate Case No. 7 of 1980 and the information furnished by the Public Information Officer, Original Side, High Court, Calcutta pursuant to a query made under the provisions of the Right to Information Act, 2005.

This Court finds that the endeavour of the petitioners herein is to challenge the deed by virtue of which the opposite party herein is claiming title in respect of the suit property. The petitioners herein claim that the said deed is a fake deed and therefore, the same is void ab initio.

It is well-settled that in an ejectment suit a dispute with regard to title of an immovable property cannot be decided. Such facts are not necessary for the purpose of deciding the real controversies between the parties in a suit under Section 6(1) of the West Bengal Premises

Tenancy Act, 1997 as the existence of landlord-tenant relationship between the parties is the pre-requisite for such a suit. The learned trial judge was right in rejecting the application for amendment.

This Court does not find any reason to interfere with such order. Accordingly, C.O. 1268 of 2025 stands dismissed.

No order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Hiranmay Bhattacharyya, J.)