

D/L- 11
04/07/2025
Ct. No.-6
Aritra

C.O. 2104 of 2025

**Sri Netai Nandi
Vs.
Sri Shib Nath Kundu (since deceased)
represented by Dibyendu Kundu**

Mr. Animesh Das

...for the petitioner

Mr. Tanmoy Mukherjee
Mr. Souvik Das
Mr. Rudranil Das

....for the opposite party

On the prayer of Mr. Das, leave is granted to the learned advocate on record for the petitioner to amend the cause title of the civil revision application here and now.

This application under Article 227 of the Constitution of India is at the instance of the defendant, who is the appellant in Title Appeal No.87 of 2023 and is directed against an order being No.18 dated April 29, 2025 passed by the learned Additional District Judge, Fast Track, 3rd Court, Howrah.

By the order impugned, the application under Order 6 Rule 17 of the Code of Civil Procedure filed by the petitioner at the first appellate stage stood rejected.

Mr. Das, learned advocate appearing for the petitioner submits that after the cross-examination of the defendant witness, the petitioner came to know of the

facts which the petitioner sought to incorporate by way of the proposed amendment.

Mr. Mukherjee, learned advocate appearing for the opposite party submits that the petitioner is trying to withdraw the admission made in the original written statement and is trying to make out a new case by way of amendment.

After going through the written statement, this Court finds that the petitioner herein has admitted that Harendra Nath Kundu and Sib Nath Kundu used to collect the rent for their self and others.

Sib Nath Kundu is the plaintiff/respondent in the title appeal. By way of the proposed amendment the petitioner sought to challenge the deeds as well as decree for partition. Thus by way of amendment the petitioner sought to challenge the title of the inducing landlord.

It is well-settled that the tenant is estopped from challenging the title of the inducing landlord.

The learned judge of the First Appellate Court was right in holding that a tenant who has been let into possession cannot deny his landlord's title.

The learned judge of the First Appellate Court was also right in holding that the petitioner herein sought to make out a third case thereby changing the line of defence by way of proposed amendment.

For such reason, this Court is not inclined to interfere with the order impugned.

CO 2104 of 2025 stands dismissed.

There will be no order as to costs.

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

(Hiranmay Bhattacharyya, J.)