

23.06.2025
Item no. 13.
Court No.6.
AB

C. O. 2108 of 2025

Prabir Kumar Sarkar
Vs
Papiya Yadav

Mr. Chandrachur Chatterjee,
Ms. Rubab Fatmafor the Petitioner.

This application under Article 227 of the Constitution of India is at the instance of the plaintiff and is directed against an order dated March 25, 2025, passed by the learned Civil Judge (Senior Division), 9th Court at Alipore, South 24 Parganas in Ejectment Suit No.13255 of 2012.

By the order impugned, the application filed by the petitioner for amendment of plaint stood rejected.

The opposite party herein filed a suit for eviction, inter alia, on the ground of default and reasonable requirement.

After going through the plaint of the said suit, this Court finds that it is the specific case of the opposite party that the defendant and her husband were initially inducted into the tenancy for residential purpose and subsequently the defendant has brought the family of her daughter in the tenancy without the consent of the plaintiff.

The petitioner herein filed an application for amendment seeking to introduce the fact that one

Sujata Rani Sarkar executed two agreements with P. K. Mullick, that is the predecessor in interest of Aloka Mullick and Papiya Yadav.

A further fact, which was sought to be incorporated, is that after the demise of the original defendant, P. K. Mullick, his wife, namely, Aloka Mullick continued the tenancy and no tenancy was granted or generated and she inherited the tenancy of her husband and Papiya Yadav is a trespasser in respect of the suit property.

Learned advocate for the petitioner submits that the proposed amendments are necessary for the purpose of deciding the real controversy between the parties.

Upon going through the original plaint, this Court finds that the suit was framed stating that the original defendant had only inherited the tenancy upon the death of her husband and Papiya Yadav, that is the daughter of the original defendant, was residing in the tenanted property without the consent of the plaintiff.

In view thereof, this Court holds that the proposed amendments are not necessary for the purpose of deciding the real controversy between the parties. By way of amendment, the petitioner sought to make out a new case that Papiya Yadav is a trespasser. When the fact that Papiya Yadav was not a

tenant, was already pleaded in the plaint, the proposed amendment was rightly rejected by the learned trial judge.

The learned Trial Judge took note of the decision of the Hon'ble Supreme Court in the case of ***Life Insurance Corporation of India Vs Sanjeev Builders Pvt. Ltd. & Anr.*** reported in **2022 SCC Online SC 1128** and assigned cogent reasons for rejecting the amendment application.

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

Accordingly, C. O. No.2108 of 2025 stands dismissed.

There will be no order as to cost.

(Hiranmay Bhattacharyya, J.)