

08.12.2025
SL No.105
Court No.6
(gc)

**CO 2380 of 2025
CAN 1 of 2025
CAN 2 of 2025**

**Smt. Madhumita Mondal & Anr.
Vs.
Smt. Janki Jaiswal**

Mr. Asis Kr. Das,
Mr. Suman Chattopadhyay
...for the Petitioners.
Mr. Nitai Ch. Saha,
Mr. Abhijit Ch. Majumder
...for the Opposite Party.

1. The revisional application arises out of an order dated January 13, 2025 passed by the learned Civil Judge (Senior Division), 7th Court at Alipore in Ejectment Suit No.12 of 2017.
2. By the order impugned, the learned Court rejected an application for amendment of the written statement at a stage when the suit was ready for evidence.
3. The petitioners/defendants prayed for amendment on the ground that the deed on the basis of which the plaintiff claimed title over the suit property were defective. The description of the suit property did not tally. The deeds did not create any right, title and interest of the plaintiff in respect of the suit property.

4. The Court found that the deeds in respect of which the amendment was sought to be incorporated were marked as Exhibit-1, during the course of the proceeding under Section 7(2) of the West Bengal Premises Tenancy Act. According to the court, the defendants had ample opportunity to raise such protest by filing an amendment application prior to the commencement of trial. The Court was of the view that in the factual aspect of the given case, the tenants were not in a position to attack the derivative title of the plaintiff. On contested hearing and upon perusal of the deeds, the Court had come to the conclusion that the relationship between the landlord and tenant existed between the parties. Allowing the amendment at the stage of evidence would relate back the amendment from the date of filing the application. In such a situation, the order of the Court under Section 7(2) of the West Bengal Premises Tenancy Act would be rendered nugatory.
5. In the written statement, the foundation of the denial of the plaintiff's title has been laid. The petitioner has disputed the derivative title of the plaintiff. The fact that there was no attornment was also averred. It is for the plaintiff to prove her positive case for eviction on the ground of reasonable requirement under the West Bengal

Premises Tenancy Act and satisfy the Court as to the maintainability of the suit. Only after the plaintiff discharges such burden, the defendants will have to discharge the reverse burden. In any event, the defendants shall be at liberty to cross-examine the plaintiff on all points relating to the deeds. Moreover, the findings of relationship of landlord under Section 7(2) of the said Act, are tentative and shall be finally decided in the suit.

6. The order impugned is modified to the above extent.
7. The revisional application and the connected applications are, accordingly, disposed of.
8. There shall be no order as to costs.
9. Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)