

D/L- 11 & 13
15/07/2025
Ct. No.-6
Aritra

C.O. 2454 of 2025

**Baren Das
Vs.
Govinda Das & Anr.**

With

**C.O. 2458 of 2025
Baren Das
Vs.
Govinda Das & Anr.**

Mr. Krishna Das
Mr. Surajit Maity
Ms. Mandira Barman

...for the petitioner

Mr. Anirban Saha Ray

....for the opposite parties

These civil revision applications arise out of the selfsame order being dated May 21, 2025 passed by the learned Judge, 6th Bench, Presidency Small Cause Court at Calcutta in Ejectment Suit No.239 of 2021.

By the order impugned the application for amendment of the written statement was rejected.

The petitioner filed an application under Section 151 of the Code of Civil Procedure praying for recalling of P.W.1 which stood rejected by the impugned order.

Petitioner challenged the aforesaid order by filing two civil revision applications.

The learned advocate appearing for the petitioner submits that during the pendency of the suit, the petitioner came to know of the fact that the opposite

party is the owner of several other properties which the petitioner sought to incorporate by way of amendment of the written statement. He further submits that the suit for eviction has been filed *inter alia* on the ground of reasonable requirement and in such a suit the plaintiff has to prove that he reasonably requires the suit property for the use and occupation of himself and the members of his family and also that the plaintiff does not have any other alternative suitable accommodation elsewhere. The learned advocate for the petitioner further submits that the P.W.1 is to be recalled as the petitioner wants to put questions with regard to the proposed amendment after the same is allowed.

The learned advocate appearing for the opposite party submits that the trial of the suit has commenced. The petitioner could not give any satisfactory explanation as to why the application for amendment of the written statement could not have been filed prior to commencement of trial. He further submits that there was lack of diligence on the part of the petitioner in applying for amendment.

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

Section 6(1) (d) of the 1997 Act states that no decree or order for recovery of possession of any premises

shall be made by the Civil Judge having jurisdiction in favour of the landlord against the tenant except on a suit being instituted by such landlord where the landlord or any person for whose benefit the premises is held, reasonably requires the premises for his own occupation and the landlord or such person is not in possession of any suitable accommodation within the same Municipal Corporation or Municipality or in any other area within 10 kilometers from such premises where the act extends.

The plaintiff/opposite party in the plaint has stated that plaintiffs have no other reasonable suitable accommodation either at Premises No.3/1/1B, Nandaram Sen Street or elsewhere. The petitioner has sought to incorporate the fact that the plaintiff is in possession of the properties being Premises No.5/2B, Rupchand Gossain Lane, Kolkata-700014 and Laxmi Dutta Lane, Kolkata-700004 and the plaintiffs after purchasing the said property have erected additional floors and inducted tenants in the said property.

As observed hereinbefore that this is a suit for eviction *inter alia* on the ground of reasonable requirement. Thus, the proposed amendments are necessary for the purpose of deciding as to whether the plaintiff is or not in possession of any suitable accommodation within the said municipal corporation.

It is not in dispute that the trial has already commenced. The Hon'ble Supreme Court in the case of

Life Insurance Company vs. Sanjib Builders Pvt. Ltd., reported at **(2022) 16 SCC 1**, held that the prayer for amendment is to be allowed if the amendment is required for effective and proper adjudication of the controversies between the parties and to avoid multiplicity of proceedings. It was further held therein that the delay in applying for amendment alone is not a ground to disallow the prayer. It is not the case of the plaintiff/opposite party herein that the proposed amendment is barred by the laws of limitation.

For such reason this Court is inclined to allow the prayer for amendment.

The impugned order rejecting the application for amendment of written statement stands set aside and the application for amendment of written statement stands allowed.

The petitioner herein filed an application praying for recalling of P.W.1 for putting certain questions with regard to the title deeds by virtue of which the plaintiffs became owners of the properties as mentioned in the schedule of the amendment application. Since this Court has already allowed the application for amendment of written statement, the application praying for recalling of P.W.1 should be allowed as the questions which the petitioner seeks to put to P.W.1 are necessary for the purpose of effective adjudication of the dispute between the parties and for rendering justice.

For such reason this Court is inclined to set aside the order rejecting the prayer for recalling the P.W.1. The application for recalling of P.W.1 accordingly stands allowed.

The petitioner is directed to file the amended written statement within a period of two (2) weeks from the date of receipt of a server copy of this order and serve a copy of the same to the plaintiffs/opposite parties.

The learned trial judge is directed to proceed with the suit in accordance with law.

At this stage, the learned advocate for the opposite party prays that the hearing of the suit be expedited. The learned Judge, 6th Bench, Presidency Small Cause Court at Calcutta is requested to make an endeavour to see that the Ejectment Suit No.239 of 2021 is disposed of as expeditiously as possible without granting any unnecessary adjournments to either of the parties.

With the above observations and directions, CO 2454 of 2025 and CO 2458 of 2025 stand disposed of.

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.)