

13.08.2025
Item No.20.
Court No.06.
S. De
265719

C.O. 2900 of 2025

Sanjoy Kumar Bose.
Vs
Himadri Kumr Sinha.

Mr. Tarak Nath Haldar,
...for the petitioner.

This application under Article 227 of the Constitution of India is at the instance of the defendant and is directed against an order dated April 24, 2025, passed by the learned Civil Judge (Jr. Divn.), 2nd Court at Alipore, South 24 Parganas in Title Suit No.1064 of 2022.

By the order impugned, the application under Order 6 Rule 17 of the Code of Civil Procedure praying for amendment of the written statement stood rejected.

Mr. Haldar, learned advocate appearing for the petitioner submits that though the defendant cannot withdraw the admission by way of amendment but the admissions can be explained by way of amendment. It further submits that the proposed amendments are necessary for the purpose of deciding the real controversies between the parties.

The opposite party herein filed a suit for declaration that the opposite party is a lawful owner in respect of the suit property and for recovery of

possession by evicting the defendant from the suit property. In the plaint it has been specifically stated that the mother of the petitioner, namely, Mira Bose, since deceased, was inducted as a monthly tenant in respect of the suit property for a monthly rent of Rs.1,000/- and the said Mira Bose while enjoying the tenancy right in respect of the suit property expired on September 22, 2018 and the tenancy right of the said deceased had been ceased with immediate effect as per the provision of law. It is further stated in the plaint that the opposite party made repeated requests before the deceased mother of the petitioner for entering into a fresh agreement by enhancing the amount of rent in accordance with current value, but the deceased mother of the petitioner did not agree to the same.

The petitioner herein is contesting the suit by filing a written statement. With regard to the averments made in paragraphs 1 to 4 of the plaint the petitioners has stated to be the matter of record in the written statement. In paragraph 9 in the original written statement, it was specifically stated that the mother of the defendant/petitioner was the original monthly tenant under the landlord in respect of one room on the western side of the ground floor at a monthly rental of Rs.1000/-per month payable according to the English Calendar Month. By way of proposed amendment, the petitioner sought to

introduce the fact that originally the grandfather of the petitioner, namely, Kalikapada Bose was the tenant and upon his death the father of the petitioner namely, Sachindra Nath Bose inherited the tenancy and after death of the father of the tenant the tenancy devolved upon the petitioner and his mother namely Mira Bose.

Thus the petitioner sought to withdraw the admission made in the written statement that his mother was the original tenant and he inherited the tenancy right from his mother by taking a stand that upon the death of his father, the petitioner and his mother jointly inherited the tenancy right.

This Court, therefore, finds that the admission in the original written statement that the mother of the defendant Mira Bose was the original tenant was sought to be withdrawn by way of proposed amendment which is not permissible. By way of amendment though the admission can be explained but such amendment cannot be contradictory and mutually destructive with the original pleadings. If the proposed amendment is allowed to be incorporated and the same will not only be contradictory with the pleadings in the original written statement but also mutually destructive.

For such reason this Court holds that the learned Trial Judge was right in rejecting the application for amendment of written statement.

Accordingly, C.O. 2900 of 2025 stands dismissed.

There shall be no order as to costs.

Urgent certified photostat copy of this order, if applied for, shall be given to the parties as expeditiously as possible on compliance with all the necessary formalities.

(Hiranmay Bhattacharyya, J.)