

Court No. 6
(265719)

24.09.2025
(AD 21)
(S. Banerjee)

CO 3469 of 2025

Nirmal Kumar Kayal
Vs.
Sanjay Todi & Ors.

Mr. Shyamal Chakraborty
Mr. Debajyoti Mondal

...for the petitioner

This application under Article 227 of the Constitution of India is at the instance of the defendant and is directed against orders dated November 12, 2024 and August 19, 2025 both passed by the learned Judge, 10th Bench, City Civil Court at Calcutta in Title Suit No. 969 of 2020.

By the order dated November 12, 2024, the evidence of the defendant's witness, stood closed.

The petitioner has filed an application praying for permission to adduce evidence of DW-2. Such prayer was rejected by the order dated August 19, 2025.

Mr. Chakraborty, learned advocate appearing for the petitioner submits that the petitioner sought to adduce further evidence through DW-2 in order to prove the date of death of Shiv Ratan Kayal. He

submits that for the purpose of proving the date of death and for tendering the death certificate of Shiv Ratan Kayal in evidence, the evidence of DW-2 is very much necessary. He submits that the prayer for adducing evidence can be allowed even at a belated stage if the same would assist the court in rendering justice.

The opposite parties filed a suit for recovery of khas possession, injunction, damages and mesne profit. It is the plaint case that one Shiv Ratan Kayal, since deceased, was the recorded monthly tenant in respect of the suit property. Shiv Ratan Kayal died long before and his widow also died after his demise and the tenancy held by Shiv Ratan Kayal, has been extinguished under the provisions of Section 2(g) of the West Bengal Premises Tenancy Act, 1997.

The petitioner is contesting the said suit by filing a written statement. In the said written statement the defendant has specifically denied that Shiv Ratan Kayal was the recorded tenant in respect of the suit property. It was stated that Shiv Ratan Kayal was neither residing nor occupying the suit property and the father of the plaintiff no. 1 and husband of the plaintiff no. 5 were all along receiving rent from the defendant and such rent was paid from the bank account of the defendant.

If such is the positive case of the defendant, this court is of the considered view that the date of death of Shiv Ratan Kayal who, according to the petitioner, was not a recorded tenant in respect of the suit property neither he was residing there, cannot be a relevant fact for deciding the issue between the parties in the instant suit.

For such reason this court is not inclined to interfere with the ultimate conclusion arrived at by the learned trial judge while rejecting the prayer of the petitioner to allow the DW-2 to adduce evidence.

Accordingly, CO 3469 of 2025 stands dismissed.

(Hiranmay Bhattacharyya, J.)