

12.11.2025
SL No.41
Court No.6
(gc)

CO 3705 of 2025

Narayan Prasad Agarwal
Vs.
Ganesh Prasad Das

Mr. Tanmoy Mukherjee,
Mr. Souvik Das,
Mr. Rudranil Das

...for the Petitioner.

Mr. Aniruddha Chatterjee, Sr. Adv.,
Mr. Ayan Banerjee,
Mr. Samik Sarkar,
Mr. Debapriya Majumder

...for the Opposite Party.

1. By this application, the tenant/defendant has challenged the order dated July 11, 2025, passed by the learned Additional District Judge, 1st Court, Howrah in T.A. No.118 of 2023. The appeal arose out of an eviction decree passed in T.S.104 of 2013. In the course of the appeal, the petitioner filed an application for amendment of the written statement in order to incorporate a fact which had subsequently come to the knowledge of the petitioner. The petitioner contended that, all on a sudden, he found unknown persons visiting the ground and the mezzanine floor of the suit building. On an enquiry, he was informed that such persons had purchased the premises. Further enquiry was made at the Registry Office and it was found that

the ground and mezzanine floor was sold by the landlord by a registered deed of sale dated March 26, 2010. The learned Court rejected the application on the ground that amendment could not be allowed at the stage of appeal. The sale deed had been executed prior to filing of the suit and the same was not a subsequent event. It would not be judicious to allow the prayer for amendment of the written statement by incorporating the fact of sale of a flat which took place three years prior to the institution of the suit.

2. Mr. Tanmoy Mukherjee, learned Advocate for the petitioner submits that the learned Court erred in coming to a conclusion that the sale which occurred three years prior to the institution of the suit, was not relevant. According to Mr. Mukherjee, the fact that the plaintiff had adequate accommodation available to him prior to filing of the suit, which he chose to sell, makes the reasonable requirement fanciful and not genuine. Even though the sale took place three years prior to institution of the suit, the conduct of the landlord would be relevant. The landlord was aware that he would require the additional space, and as such, ought not to have sold the ground and mezzanine floor. The learned Court ought not to have gone into the merits of the

amendment, but ought to have permitted the petitioner to urge this point in the appeal, in order to establish that the suit for eviction was filed with the mala fide intention to oust the petitioner, without any legitimate requirement for the premises.

3. Mr. Aniruddha Chatterjee, learned Senior Advocate submits that what the plaintiff did three years prior to the institution of the suit, was irrelevant. The plaintiff has been successful in proving his reasonable requirement and accordingly the suit was decreed. In the appeal, the petitioner is at liberty to assail the order passed by the learned Trial Judge on the basis of the records, but the learned Judge rightly rejected the application for amendment of the written statement at the appellate stage. Moreover, the petitioner resided in the premises and it could not be accepted that the petitioner was unaware that the ground floor and mezzanine floor had been transferred to third parties.
4. I have considered the rival contention of the parties and agree with Mr. Chatterjee to the extent that the reasonable requirement of the plaintiff on the date of institution of the suit for eviction, is the relevant consideration. Nothing transpired after the suit was filed, which would be of any significance in the appeal. The

accommodation available to the plaintiff at the time of the institution of the suit has a direct bearing in the matter. The plaintiff's requirement should be adjudicated on the basis of what was available at the time of institution of the suit. The only determining factor will be, when the suit was filed, whether the available accommodation was adequate to meet the requirement of the plaintiff/landlord or not.

5. Under such circumstances, the revisional application is dismissed. There shall be no order as to costs.
6. Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)