

D/L- 44
17/03/2025
Ct. No.-6
Aritra

C.O. 3674 of 2024

**Kabita Dutta
Versus
Radhamohan Ganai**

Mr. Syamal Kumar Das
Ms. Smita Pal
...for the petitioner

Mr. Subhendu Bandyopadhyay
Mr. Abhishek Chakraborty
Mr. Pratap Kumar Yoolav
....for the opposite party

This application under Article 227 of the Constitution of India is at the instance of the plaintiff and is directed against an order being No.53 dated September 11, 2024 passed by the learned Civil Judge (Jr. Div.), 2nd Court, Serampore, District-Hooghly in Title Suit No.217 of 2022.

By the order impugned the application under Section 6 Rule 17 of the Code of Civil Procedure stood rejected.

The learned advocate appearing for the petitioner submits that the amendment sought for is necessary for the purpose of deciding the real controversy between the parties. He further submits that the petitioner has filed this application for amendment of the plaint, after coming to know from the cross-examination of DW 1 that the father of the opposite party herein was the original tenant.

It is not in dispute that the application for amendment was filed for closure of the evidence. After going through the application for amendment, this Court finds that the petitioner has not explained the reasons for not filing the application for amendment of the plaint prior to the commencement of trial.

It has been specifically stated in the plaint that the tenancy was created in the year 1982 by virtue of a tenancy agreement. If that was the case made out by the petitioner in the plaint this Court fails to understand as to why the petitioner approached the learned Trial Judge for amendment at such a belated stage.

The learned advocate appearing for the opposite party placed reliance upon a decision of the Hon'ble Supreme Court in the case of **Chander Kanta Bansal vs. Rajinder Singh Anand** reported at **2008 INSC 343** wherein the Hon'ble Supreme Court refused to entertain the prayer for amendment which was filed after closure of the evidence.

That apart, the petitioner herein in the original plaint has admitted that the opposite party herein was the tenant. The petitioner is now trying to make out a new case and sought to withdraw the admissions by seeking to amend the pleading. It is not a case that the petitioner that he is trying to explain the admissions by way of amendment. It is well settled that admission cannot be allowed to be withdrawn by way of amendment.

For such reasons this Court is not inclined to interfere with the order impugned, CO 3674 of 2024 stands dismissed.

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.)