

18.2.2025
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Ct. no. 237
sb

CO 3925 of 2024

**M/s. Sufal Constructions Private Limited
Vs.
M/s. EIC Holdings Private Limited**

Mr. Subhasis Dey
Mr. Victor Mukherjee
Mr. Amritlal Dhar ...for the Petitioner

This application has been preferred against the order no. 83 dated 22.8.2024, by which the court below refused to allow the plaintiff's prayer for amendment application, wherein the plaintiff/petitioner wanted to incorporate in the plaint that he duly sent a sum of Rs. 51, 000/- on account of due rent to the defendant which the defendant refused to accept. However, learned Trial Court after hearing both the parties, refused the said prayer of the plaintiff.

During the course of hearing, learned counsel for the petitioner/plaintiff candidly submits that though the contention of the plaintiff in the proposed amendment is that it sent a sum of Rs. 51,000/- only on account of due rent to the defendant through a cheque and the defendant refused to accept the cheque but in the schedule of amendment, it had been written that the defendant duly accepted the same and subsequently, returned the said cheque to the plaintiff.

Accordingly, petitioner submits that without interfering with the present order, he may be given liberty to file fresh prayer for amendment of plaint to that effect.

Having heard learned counsel for the petitioner and on perusal of defendant/opposite party's reply dated 13.12.2023, it appears that defendant instead of accepting the amount, returned it to the plaintiff on the ground that plaintiff is a trespasser. Accordingly, I find substance in petitioner's contention as the application for amendment suffers from patent ambiguity.

In such view of the matter, I find that the present application can be disposed of giving liberty to plaintiff/petitioner to make fresh prayer for amendment before the Trial court. Since the order going to be passed by this court, is not likely to cause prejudice to the plaintiff/opposite party herein, the service of copy of the application upon the opposite party is dispensed with.

The present application being C.O. 3925 of 2024 is hereby disposed of giving liberty to the petitioner/plaintiff to prefer fresh application for amendment of the plaint within a period of 30 days from the date of communication of the order. In the event of filing such application by the plaintiff/petitioner before the court below, the court below will give opportunity to defendant to file

objection within reasonable period and thereafter will dispose of such application in accordance with law, after giving opportunity to both the parties to contest and without being influenced by any observation made herein.

Urgent Photostat certified copy of this order, duly applied for, be given to the parties upon compliance of all requisite formalities.

(Dr. Ajoy Kumar Mukherjee, J.)