

13.05.2025
Item No. 19
Ct. No. 30
AN

CO 3997 of 2024
Smt. Jamuna Mandi
vs.
Sri Avijit Dey & ors.

Mr. Bikash Chandra Das
... for the petitioner

Mr. Dyutiman Banerjee
Mr. Chiranjib Sinha
... for the opposite parties

Supplementary affidavit filed today be kept with the record.

The present revisional application has been preferred against an order No. 126 dated 12.08.2024 passed by the learned Civil Judge (Junior Division), 1st Court, Serampore, Hooghly in Title Suit No. 272 of 2016.

Vide the said order under revision the learned trial court rejected the petitioner's/plaintiff's prayer for relying upon additional documents at the time of trial (cross-examination of DW 1). The Court relying upon Order VII Rule 14(3) of the Civil Procedure Code, rejected the said prayer.

On hearing the parties and considering the materials placed, it appears that the petitioner/plaintiff before the learned trial court filed the suit praying for declaration and related reliefs on the ground that the plaintiff is a lessee in respect of the suit property.

The petitioner/plaintiff has relied upon the lease deed executed between the parties in support of her case. The dispute as to the non-payment of rent has been raised by the defendant/opposite party in his written statement and subsequently, in his evidence.

The petitioner now intends to bring in related documents referred to during trial to deny the case of the lessor/defendant/opposite party in their written statement.

The question of default in payment of rent was not part of the pleadings in the plaint and as such no rent receipts were produced at that stage (being Order 7 Rule 14 CPC). Though the petitioner/plaintiff has taken a stand that she could only trace out the rent receipts, recently it is also on record that **the question of default in payment of rent was raised by the defendant/opposite party in their written statement** and as there is no scope for a reply to a written statement, the petitioner is at liberty to counter the said statement by way of evidence, both oral and documentary and the same is not barred by way of a prayer for amendment under Order 6 Rule 17 CPC.

Accordingly, the order under revision being no. 126 dated 12.08.2024 passed by the learned Civil Judge (Junior Division), 1st Court, Serampore, Hooghly in Title Suit No. 272 of 2016 being not in accordance with law is set aside.

The documents sought to be brought on record by an application under Order 7 Rule 14(3) CPC, be treated as an application under Order 6 Rule 17 CPC and the same stands allowed. Amendment to the plaint in respect of the documents sought to be relied upon, in respect of the pleadings in the written statement be made accordingly. The documents relied upon by the petitioner be adduced as evidence by the trial court in accordance with law and as the defendant will have the opportunity of cross-examination, there is no scope of prejudice.

Civil revisional application is disposed of.

Interim order, if any, stands vacated.

There will 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 of all necessary formalities.

(Shampa Dutt (Paul), J.)