

01.07.2025
Item 258 ML.
Court No.6.
AB

C. O. 4275 of 2024

**Sunil Kumar Ghosh
Vs
Arjun Kumar Khan**

Mr. Sandip Das,
Mr. S. K. Bhattacharyafor the Petitioner.

This application under Article 227 of the Constitution of India is at the instance of the defendant and is directed against an order no.92 dated November 26, 2024, passed by the learned Civil Judge (Jr. Division), 1st Court at Chandernagore, Hooghly in Title Suit No.167 of 2019.

By the order impugned, the application under Order 6 Rule 17 of the Code of Civil Procedure for amendment of written statement stood rejected.

Mr. Das, learned advocate appearing for the petitioner submits that the petitioner sought to introduce the fact that the parties entered into an agreement on March 16, 1999, which was signed by the parties in the presence of two witnesses.

The petitioner also sought to incorporate the term for enhancement of rent after every five years.

The petitioner also sought to incorporate the fact that the plaintiff has no right to evict the defendant from the suit premises.

Learned advocate also submits that the application for amendment of a written statement should be construed more liberally than that of the plaintiff.

After going through the written statement, this Court finds that the petitioner has not challenged the right of the plaintiff/opposite party to file a suit for eviction against them. By way of amendment, the petitioner sought to incorporate the fact that the plaintiff has no right to evict him.

After going through the proposed amendment, this Court finds that the defendant is trying to take a new line of defence by way of amendment which is mutually destructive with the original pleading which is not permissible in law.

Though there is no quarrel to the proposition of law that the application for amendment of written statement should be considered more liberally but that does not entitle the defendant to change the line of defence by way of amendment. The proposed amendments are not necessary for the purpose of deciding the real controversy between the parties.

For such reason, this Court is not inclined to allow the prayer for amendment of the written statement. The order impugned does not suffer from any infirmity warranting interference under Article 227 of the Constitution of India.

Accordingly, C. O. No.4275 of 2024 stands dismissed.

(Hiranmay Bhattacharyya, J.)