

D/L- 231
15/05/2025
Ct. No.-6
Aritra

C.O. 4314 of 2024

**Rajendra Kumar Agarwal
Vs.
Asish Kumar Dhar & Ors.**

Mr. Tapas Bhattacharyya
Ms. Kavita Rani
Ms. Krishna Yadav

....for the petitioner

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.58 dated October 3, 2024 passed by the learned Judge, 5th Bench, City Civil Court at Calcutta in Title Suit No.1549 of 2021.

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

It appears from the schedule of the amendment application that the petitioner sought to incorporate the fact that since 2014-2015 the petitioner was running trade by obtaining trade license from Kolkata Municipal Corporation under the trade name with the permission and consent of the plaintiffs upon the two shop-rooms of the suit property. It appears from the paragraphs 8 (b) of the original written statement that it was specifically stated that the original tenant, namely, Jawarti Devi used to reside in the suit premises along with the

members of her family consisting of her husband, mother until her death and continued to hold, possess and enjoy the said tenanted rooms without any interruption or obstruction.

Mr. Bhattacharyya, learned advocate appearing for the petitioner submits that the defendant is not trying to withdraw any admissions but wanted to clarify the admissions made in the written statement.

It is well-settled that contradictory and mutually destructive pleadings cannot be allowed in written statement.

After going through the proposed amendment, this Court is of the considered view that the proposed amendment is not only contradictory but mutually destructive to the original pleadings.

This Court finds that the defendant is trying to change the tenanted property from residential to non-residential and is trying to enlarge the tenancy by including the right over common bath and privy. The defendant is trying to change the line of defence by way of amendment which is impermissible.

In view thereof, the learned trial judge was right in rejecting the prayer for amendment of the written statement.

Accordingly, CO 4314 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.)