

Ejectment Suit 113 of 2021.

[CNR No WBPS 01 000234 2021]

Before – Sonia Majumdar- Ld. Chief Judge.

Order No:-14.

11-01-2023.

Today is fixed for framing of issues.

Record reveals that on the strength of a put up petition, on 17-11-2022 plaintiff has filed a petition u/o-VI Rule 17 read with Section 151 of C.P.C on the ground stated therein after service of copy which is fixed today for consideration.

Plaintiff files hazira. Defendant no-5 files haziras. Defendant no-5 also files Written Objection against the petition of the plaintiff filed u/o-VI Rule 17 read with Section 151 of C.P.C dt 17-11-2022 . Copy served. Let the same be kept in the case record.

Parties are found present on call. The petition u/o-VI Rule 17 read with Section 151 of C.P.C dated 17-11-2022 together with its written objection is taken up for hearing.

Ld. Advocate for the plaintiff submitted that the instant suit has been filed by the plaintiff mainly on the ground of reasonable requirement of the suit premises by the plaintiff and family members, but during the pendency of the suit, the mother of the plaintiff/petitioner died intestate on 28-07-2022 , who was one of the family members of the plaintiff. Therefore, in order to delete the elaboration of reasonable requirement of accommodation from the plaint in connection with his mother , plaintiff is praying for amendment of the plaint as per schedule of the amendment mentioned in the application.

Against this, Ld. Advocate for the defendant no-5 raised objection and submitted in terms of the averments made in his Written Objection. It is submitted that the petition is not maintainable. It is further submitted that if the petition is allowed, then liberty be given to the defendant to file Additional Written Statement.

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Heard both sides. Perused the petition, schedule of amendment , its written objection and materials on record.

Considered.

The fact of the death of the mother of the petitioner/plaintiff is not denied by the defendant, whose reasonable requirement is elaborated in the plaint.

Besides, the proposed amendment is formal in nature and if allowed, will not change the nature and character of the suit. Besides the same is necessary for the purpose of determining the real question in controversy between the parties. The suit is also at its nascent stage and trial has not yet commenced. As such, I find no impediment in allowing the prayer of the plaintiff.

Hence it is

Ordered

That the application u/o-6 Rule 17 read with Section 151 of the Code of Civil Procedure filed by the plaintiff on 17-11-2022 is hereby allowed on contest but without cost.

Amend the plaint as per schedule of the amendment made in the instant application. Note in the relevant register. Office to do the needful.

Plaintiff is directed to file amended plaint.

Plaintiff is further directed to serve copy of amended plaint upon the defendant. Defendant no-5 is at liberty to file additional written statement against the amended plaint, if any.

To (**25-01-2023**) for filing amended plaint by the plaintiff . Defendant no-5 is at liberty to file Additional Written Statement if any.

Chief Judge.

J.O .Code:- WB 01128.