

Ejectment Suit 232 of 2019.

[ CNR No WBPS 01 000618 2019 ]

Before – Sonia Majumdar- Ld. Chief Judge.

Order No:-19.

08-02-2023.

Today is fixed for hearing of petition u/o-VI Rule 17 read with Section 151 of C.P Code filed by the plaintiff dated 02-12-2022, w/o if any in the mean time and framing of issues.

Parties file haziras. Defendant files Written Objection against the petition of the plaintiff dt 02/12/2022 filed u/o-6 Rule 17 f C.P Code. Copy served.

Parties are found present on call through their respective Ld. Advocates. The petition u/o-VI Rule 17 read with Section 151 of C.P Code filed by the plaintiff dated 02-12-2022 is taken up for hearing together with its written objection.

By filing the petition u/o-VI Rule 17 read with Section 151 of C.P Code , plaintiff has contended inter alia that during the pendency of the suit, plaintiff has left the room at the premises no 13/B, Joynarayan Chandra lane, P.S- Muchipara, Kolkata-700009 where she was residing as a licensee under her brother-in-law and thereafter plaintiff has been inducted as a new tenant under Sadhan Chandra Das at premises no 2, Joynarayan Chandra Lane, P.S- Muchipara in respect of one room on the 1<sup>st</sup> floor since March 2022. Therefore, by filing the instant petition, plaintiff is praying for amendment of the plaint as per schedule mentioned in the petition in order to incorporate the above facts.

Against this, Written objection has been filed by the defendant today denying all the material contentions made in the petition.

At the time of hearing, Ld. Advocate for the plaintiff submitted that earlier the plaintiff had filed a similar application but the same was not pressed due to some technical defects. He prayed for allowing the petition for amendment.

Against this, Ld. Advocate for the defendant submitted that plaintiff has suppressed the fact that the son of the plaintiff purchased a flat and the particulars of the same has been mentioned in his Written Objection. He further submitted that the if the petition of the plaintiff is at all allowed, then the defendant is entitled for cost.

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

*p.t.o.....*

Considered.

The proposed amendment is formal in nature and will not prima facie change the nature and character of the suit. Besides the same will be helpful 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. The defendant will also get the opportunity to controvert the fact incorporated in the plaint by way of filing Additional Written Statement. 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 of the Code of Civil Procedure filed by the plaintiff on 02/12/2022 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 is also given liberty to file additional written statement against the amended plaint, if any.

To ( **22-02-2023** ) for filing amended plaint by the plaintiff , additional written statement if any by the defendant and framing of issues.

Chief Judge.

J.O .Code:- WB 01128