

Present: Sri. Amit Chakraborty (WB01320)
Ejectment Suit – 290 of 2017
CNR: WBSP030025392017

Order No.
Order Dated : 01.07.2025

Today is fixed for passing exparte order.
Plaintiff files hazira.
Heard Ld. Advocate for the plaintiff on exparte.
Now the record is taken up for passing exparte order.
Perused the materials on record.
Considered.
This instant suit is a suit for eviction of trespasser and mesne profit, valued at Rs.1376/-.
Before delving into the factual aspects of the instant suit, it is pertinent to have a quick outlook on the factual aspects of this case.

Facts of the suit:

Six plaintiffs herein sue the two defendants.
The plaintiffs claim themselves owner of the suit property, who obtained ownership by virtue of inheritance on the demise of Kanai Lal Ghosh.
The plaintiffs stated that the predecessor of the defendants namely Ratan Mondal was inducted as monthly tenant in respect to the suit property, specifically described in the schedule of the plaint. The said Ratan Mondal died in the year 2002 and his wife inherited the tenancy as per law. Subsequently the wife of the original tenant also died in the year 2006. As such the tenancy ceased to exist.
It is alleged by the plaintiffs that the instant defendants / the legal heirs of the original tenant are now occupying the suit property as trespassers. It is also alleged that the instant defendants have changed the nature and character of the suit premises.
Plaintiffs requested the defendants to vacate the suit premises verbally and also by sending a legal notice through a Ld. Advocate. But the defendants failed to act on such requests. The defendants received the notice but did not vacate the suit premises. As such the cause of action for filing this instant suit arose.
Hence, the plaintiffs pray for decree of eviction and mesne profit.

SUIT SCHEDULE MENTIONED PROPERTY OF THE PLAINT:

The suit schedule mentioned property of the plaint has been configured as one room with verandah, made of bamboo structure with darma and split bamboo, mud floor and tile roof with common user of bath and privy, located at premises No. 23/C, Jagganath Ghosh Road, P.S – Kasba, Kolkata – 700042.

EVIDENCE ADDUCED:

From the part of the plaintiffs, the plaintiff No. 2 Mihir Kumar Ghosh deposed as PW 1 on exparte.
The following documents have been marked as Exhibits:

Exhibit 1	:	Photocopy of Aadhaar card.
Exhibit 2	:	Property tax receipt
Exhibit 3	:	Rent receipt
Exhibit 4 collectively	:	Copy of eviction notice alongwith A/d card and another notice with envelope

QUICK OUTLOOK ON THE INCIDENTS OF THE INSTANT SUIT:

The instant suit has been filed on 14.11.2017. The defendant No. 1 appeared in connection with this suit. The defendant No. 1 filed a petition u/s 7(1) and 7(2) of WBPT Act. The petition u/s 7(1) & 7(2) of WBPT was disposed of on 26.06.2019 holding that the said petition is not maintainable. Defendant No. 2 did

not appear. As such plaintiff caused a notice to be served as per the Order 5 Rule 20 of CPC. But the defendant No. 2 did not turn up even. As such the instant suit started proceeding ex parte against defendant No. 2.

Later the defendant No. 1 did not take any step. The defendant No. 1 did not file any show cause. As such the instant suit proceeded ex parte against defendant No. 1 too.

From the part of the plaintiffs, plaintiff No. 2 deposed as PW 1 before this Court. Several documents have been marked as Exhibits. The plaintiff furnished eviction notice, tax assessment receipts.

Heard the Ld. Advocate for the plaintiffs at length.

Now the suit is pending for final disposal.

DECISION:

To decide the instant lis, this Court finds it pertinent to look into the documentary materials on record.

The plaintiffs furnish property tax receipt, rent receipts, eviction notice. Those documents show that the suit property belongs to the plaintiffs.

The notice to quit has also been marked as exhibit. The same has been received by the defendant, as found from the acknowledgment card.

Thus from the unchallenged testimony of PW 1, the defendants are found trespasser in relation to the suit property.

Thus, this Court is of the opinion that the plaintiffs are entitled for decree of eviction of trespasser.

Hence, it is

ORDERED

The plaintiffs get a decree of eviction of the defendant from the suit property.

The defendants are hereby directed to vacate and handover the vacant possession of the suit schedule mentioned property of the plaintiff to the plaintiff within 60 days of passing this order and judgment.

Else the plaintiffs are at liberty to take recourse to law.

The plaintiffs are not entitled for mesne profit till the date of delivery of judgment and order.

The plaintiffs are at liberty to bring appropriate lawsuit for claiming mesne profit from the date of passing of this judgment and order till the date of delivery of vacant possession of the suit property by the defendant to the plaintiff in tune with law.

Other reliefs are, thus, refused.

Thus the instant suit is disposed of on ex parte.

Interim order, if any, stands vacated.

Court fees paid is correct.

D/A is directed to note in the relevant register .

Prepare a decree accordingly.

Update the CIS.

D/c by me

S/d-
**Civil Judge (Jr. Divn.),
1st Court, Alipore,
24-Parganas (South)**