

**Ej. Suit No. 30 of 2020**  
**CNR No. :: WBPS01-001217-2020**

**Order No. 19**

**Date : 27.03.2023**

Today is fixed for hearing of petition u/s 151 of CPC filed by the defendant on 01.04.2021 seeking repairing, written objection, if any, in the meantime and framing of issues.

Plaintiff filed written objection today against the petition dated 01.04.2021 filed by the defendant.

The parties have filed their respective haziras.

Heard the Ld. Advocates for both sides.

Perused the materials on record.

Considered.

Now the application dated 01.04.2021 filed u/s 151 of CPC filed by the defendant is taken up for passing order.

This is suit for ejectment. Plaintiffs have claimed to be the landlords in respect of the suit property. On the other hand, the status of the defendant has been coloured as a monthly premises tenant thereof. Plaintiffs have filed this suit for eviction of the defendant on various grounds including the ground of violation of the provision of clause (m), (o) & (p) of section 108 of T.P. Act for causing damage and deterioration of the suit room by the defendant.

The defendant/tenant has filed one application dated 01.04.2021 stating interaila that the suit property/tenanted property is lying completely in ruinous condition and needs to be repaired, immediately. He has alleged that the plaintiffs, inspite of repeated requests made by him, have neither taken any step for making necessary repairing nor they have allowed the defendant to do the same. Hence, this prayer.

The defendant has categorically mentioned that the front wall of the suit shop room by plastering and also repairing the pillars of the suit room.

The plaintiffs have categorically denied the necessity of repairing of the suit property that has been projected by the defendant. The plaintiffs have stated that no repairing of the suit property is required as the same is not lying in dilapidated condition.

In the case in hand, the defendant though have come up with the petition for repairing alleging the dilapidated condition of the suit room but in order to make his claim candid the regarding the ground of repairing, the defendant has not filed any petition for local inspection to bring before this Court the exact picture of the suit premises.

It is true that in the present case the plaintiff has grounded a plea of causing damage in the tenanted premises and as no inspection has been hold over the suit premises, this Court is in absolute dark regarding the present condition of the suit property and, as such, this Court is apprehensive that if the repairing work is being allowed, the same might alter the present nature and character of the suit room removing the ground of damage to the suit property.

In this regard, one should not oblivious that since no report of the Advocate commissioner is present before this Court which could have clearly sketched the present condition of the suit property with its nature and condition, the defendant in the event of repairing of the suit property may change the nature and character of the same.

Therefore, having regard to the entire facts and circumstances of the case in hand, this Court does not find any justification in allowing the prayer for repairing as made by the defendant/tenant at this stage.

**Hence, it is**  
**ORDERED**

that the application under Section under section 151 of CPC filed by the defendant on 01.04.2021 is rejected on contest but without any cost.

Fixing **07.06.2023** for framing of issues.

Dictated and corrected by me:

*Judge*

Smt. Sudipa Banerjee  
J.O. Code : 01148  
Judge, 3<sup>rd</sup> Bench,  
Presidency Small Cause Court,  
Calcutta.