

EJECTMENT SUIT NO. 24 of 2024
C.N.R No. WBPS01-000052-2024

IN THE 4TH BENCH, PRESIDENCY SMALL CAUSE COURT
PRESENT: SMT. ARCHITA SEN, JUDGE BENCH-4, PRESIDENCY
SMALL CAUSE COURT.

ORDER NO- 11
DATED 08.09.2025:

Today is fixed for hearing of the petition dated 13.05.2025 under Order XXXIX Rule 7 of C.P.C. Plaintiffs as well as defendant file separate attendance through their respective Ld. Advocates.

The said petition is taken up for hearing.

Heard both sides in full. Perused the record including the instant petition and the written objection.

Considered.

The instant petition contemplates an Order appointing an Advocate Commissioner for inspection of the accommodation available to the plaintiffs and defendant at the suit building.

The defendant raised objection against the prayer of the plaintiffs by filing written objection and stated that the plaintiffs have sufficient accommodation at premises no.21B, Shankar Ghosh Lane but they intentionally suppressed this fact. So the accommodation available to the plaintiffs at that premises shall also be inspected.

The record revealed that the plaintiffs have filed the instant suit on the ground of reasonable requirement along with other grounds. It is the settled position of Law that whether the landlord requires the suit premises for his own use and occupation or not, is a mixed question of law and fact. In considering the requirement of the landlord, the total accommodation has to be computed. So in order to adjudicate the requirement of the plaintiffs ascertainment of the real scenario is necessary, for which this Court thinks that the prayer of the plaintiffs needs to be allowed. It will also help in appreciating the dispute in hand and for that reason the inspection report may come in aid for just disposal of the suit and thereby mitigating substantive justice.

So far as the ground of objection raised by the defendant, is concerned, it should be mentioned that if it is the case of the defendant in his defence that the plaintiffs have accommodation at some other building also, then the defendant is at liberty to prove the same.

In the opinion of the Court, the points that are being forwarded for the inspection, do not appear to be an attempt of fishing out of evidence looked from this stage of the case.

In view of such circumstances, this Court intends to pass the following order--

O R D E R E D

That let Srabani Ghosh learned Advocate of the Presidency Small Causes Court, Calcutta, Bar Association be appointed as the learned Pleader Commissioner for the purpose of this case.

Her fees, considering the work and distance, is fixed at ₹8000/- which is to be paid by the plaintiffs. The plaintiffs are directed to pay the fees of the Ld. Pleader commissioner to her by hand within 15 days hereof.

Writ will be issued on payment of fees.

On receipt of writ the learned commissioner is required to do the needful inspection in respect of the points as stated in the petition dated 13.05.2025, after duly notifying the parties and/or their respective pleaders.

The learned commissioner is requested to submit her report by the next date positively.

The plaintiffs are directed to submit the relevant papers within 15 days hereof failing which necessary orders shall be passed.

The petition dated 13.05.2025 under order XXXIX Rule 7 of the Code of Civil Procedure is thus disposed of on contest and without any costs.

To 15.12.2025 for commissioner's report and steps by the plaintiffs in meantime.

Typed, Corrected and Printed by me.

Judge, Bench-4
Presidency Small Cause Court.
J.O Code WB01174

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