

EJECTMENT SUIT NO. 45 OF 2012
C. N. R. NO. WBPS01-000073-2012
Before Sri M. N. Ghosh, Ld. Judge, 2nd Bench.

ORDER NO. 96 DATED 28.06.2024

Today is fixed for hearing of the petition dated 12.12.2023 filed by the plaintiff under Or.39 R.7 of C.P.C.

Plaintiff has filed hazira through Id. Advocate.

Ld. Advocates for both sides are present.

The record is taken up for hearing of the petition filed by the plaintiff.

Heard Id. Advocates for both sides.

Perused the petition and the materials on record.

It is submitted by the Id. Advocate for the plaintiff that the instant suit has been filed on the ground of reasonable requirement. It is also submitted that for proper adjudication of the instant suit, the occupation available to the plaintiff and the defendant in the suit building should be inspected and as such, prayed for appointment of an Advocate Commissioner to hold local inspection on the points mentioned in the petition.

On the other hand, Id. Advocate for the defendant, by filing written objection, has submitted that the instant petition is nothing but abuse of the process of law. The instant petition is misconceived and filed with an ulterior motive. The plaintiff has no locus standi to continue with this suit since the present plaintiff is not a family member of the deceased, Smt. Jasyabati Sadhukhan and prayed for rejection of the instant petition.

Considering the submissions of Id. Advocates for both sides, the petition, written objection and the materials on record, I find that the instant suit has been filed, inter alia, on the ground of reasonable requirement. So, to bring the real picture regarding the actual accommodation available to the parties to this suit in the suit building, local inspection should be held.

Hence, it is

ORDERED

that the petition under Or.39 R.7 of C.P.C. filed by the plaintiff on 12.12.2023 is allowed on contest in respect of point nos. (i) to (v).

Let **Smt. RITUPARNA GHOSH**, Id. Advocate of the local Bar be appointed as Advocate Commissioner to hold local inspection of the suit building being premises no.6/6B, Sachin Mitra Lane, P.S. Shyampukur, Kolkata-700003 in respect of the point nos. (i) to (v) after service of notice upon both parties to this suit and their respective Id. Advocates and to submit her report positively on or by the date fixed.

Plaintiff is directed to pay/deposit a sum of Rs.10000/- towards cost of commission within seven (7) days from the date of this order positively.

Issue writ of commission after payment/deposit of commission cost by the Plaintiff.

Fix 28.08.2024 for submission of commissioner's report.

D/C by me:

Sd/-

Judge, Bench – II,
Presidency Small Cause Court,
Calcutta.

Sd/-

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Presidency Small Cause Court,
Calcutta.