

**EJECTMENT SUIT NO. :- 106 OF 1999**  
**(CNR No. WBPS01-000079-1999)**  
**(JO CODE No. WB01165)**

**Before Smt. P. Shukla, Ld. Judge, 2nd Bench.**

Order no. - 313

Dt. 12.02.2026

Today is fixed for order in respect of the petition under Order 7 Rule 11 (a) and (d) read with Section 151 of CPC and for order in respect of the petition under Order 6 Rule 17 of CPC read with Section 151 of CPC.

Both parties filed hazira.

Record is taken up for passing order in respect of petition under Order 7 Rule 11 (a) and (d) read with Section 151 of CPC filed by defendant no. 1 and 2.

It is submitted by Ld. Advocate for defendant that one Smt. Hira Basu as plaintiff filed the Ejectment Suit No. 37 of 1995 in the City Civil Court, Calcutta against the defendants no. 1 and 2 as the joint Tenant in respect of premises no. 80, Wellesley Street now known as Rafi Ahmed Kidwai Road, Kolkata - 700013, P.S. - Taltola. The said plaintiff Smt. Hira Basu also impleaded defendant nos. 3 to 9 as the Sub-Tenants alleging illegally inducted by the defendant nos. 1 and 2 and/or their predecessors after promulgation of West Bengal Premises Tenancy Act, 1956. The plaintiff also alleged that the defendant nos. 1 and 2 were defaulters in payment of monthly rent @ Rs.275/- from Shravan 1390 BS (corresponding to July/ August, 1983).

The plaintiff disclosed here identity in the plaint as the owner and Executrix for the suit premises. The said plaintiff also alleged that Quit Notice/ Notice of Eviction by J. Ahmed, Advocate dated 30.07.1994 was served upon the defendant nos. 1 and 2 claiming recovery of possession of the said suit property. The plaintiff also disclosed that the said notice of Eviction dated 30.07.1994 was duly served upon the defendant no. 1 and 2 and the said defendants through their Ld. Advocate Mr. Pankaj Kumar Samanta replied vide letter dated 05.05.1994 (15.09.1994?). The defendants had failed and neglected to vacate the suit premises inspite of service of said Eviction Notice upon the defendants and cause of action arose, hence the Suit. (Ejectment Suit No. 37 of 1995).

In the original plaint at the commencement of Suit in the City Civil Court, Calcutta, the said plaintiff had described the suit premises in the schedule to the plaint as one shed with related description and in paragraph no. 2 of the said original plaint also described the suit premises as one shed.

The plaintiff sought for eviction of the defendants from the suit premises and decree to that effect. The plaintiff described herself with her credential as the owner and also Executrix in paragraph no. 1 of the plaint which descriptions are contradictory with each other since ownership refers to title but executor-ship does not so who was the owner and executrix and what was the plaintiff ? The plaintiff had adduced evidence as substituted in the matter of her objection to the applications under Section 17(2) and 17(2A)(b) of the West Bengal Premises Tenancy act, 1956 filed by the defendants as to the dispute of landlord-tenant relationship and arrears of rent as claimed by the plaintiff in plaint as default in payment of Rent w.e.f. Shravan, 1390 (July - August, 1983). The plaintiff/s in the said two objection had referred to their / her knowledge of pending Thika Tenancy dispute and payment of Thika Land Rent in the Office of the Thika Controller/ Government of West Bengal Calcutta Collectorate w.e.f. 18.01.1982 and the false ejection suit filed in 1995.

The defendants then stated in the Written Statement in order to deal with the false case/ allegations contained in the plaint and as to the background of the suit to reveal truth in paragraph no. 6(a) to 6(f) as to how and in what manner the defendants became the Thika Tenants of the Suit property.

Even after such information given by the defendants upon facts and records, the purported plaintiff said one Smt. Hira Basu had purportedly filed the said false fake fraudulent Ejection Suit No. 37 of 1995 in the City Civil Court, Calcutta then transferred to the Small Causes Court. In the said Ejection suit the plaintiff did not mention nor made any whisper about such facts of Thika Tenancy and/or any dispute regarding the said Ground Rent paid and receipts issued by them and the ownership of the said structure/ SHED by the defendants and/or their predecessors. Thus the Ejection Suit was filed by total suppression of facts and the dispute and backgrounds. The plaintiff acted fraudulently and did not move/

approach the Ld. Court with clean hands in filing the Ejectment Suit No. 37 of 1995 (now Ejectment Suit No. 106 of 1999).

Since, the plaintiff filed the Ejectment Suit by suppression of facts and the disputes fraudulently as a fake and false suit, subsequently the plaintiff had wiped out and removed certain portion of Paragraph No. 2 and the definition and denotation of SHED in Schedule in deceitfully without Order of the Ld. Court to discard, presuming that the said description of Thika Tenancy would be established by such words SHED in the Schedule and Paragraph No. 2 removed/ wiped out by adopting such fraudulent acts while the plaint was amended for death of purported original plaintiff, Smt. Hira Basu and then upon death of Defendant No. 2 Shailendranath Kundu without any proper or legal amendment or legal approach before the Ld. Court as to such illegal fraudulent acts of the plaintiff for fraudulent change of the word SHED and removed a portion of the Paragraph No. 2 in the plaint. The plaintiff/s and their Ld. Advocate are therefore, liable for Contempt of Court and for penal action and the matter to go to the Bar Council, West Bengal.

The plaintiffs did not raise any objection of the Order of Thika controller for deposit of Ground Rent by the defendants in the Office of the Collector Calcutta. The defendants also stated that the application for determination as to the Thika Tenancy of the defendants from the time or their predecessor as per their complete documents/ proofs pending before the Thika Controller at the Controlling Office Headquarter / Survey Building, Alipore, Calcutta - 700 027 wherein the present plaintiff Smt. Parichita Basu and/ or her own brother Prithviraj Basu and/or her/their mother Sanchayita Basu her husband Sadhan Kr. Bose also appeared but the plaintiff/s did not make any whisper about such case pending before the Thika Controller in this Ejectment Suit No. 37 of 1995 - Ejectment Suit No. 106 of 1999 and that the Thika Controller already accepted prima facie case of the defendants as Thika Tenants and after inspection of the said Thika Tenancy Structure/ SHED Thika Tenancy premises then directed deposit of rent for the land in the Office of the Collector, Calcutta. The plaintiffs having such knowledge but with certain fraudulent and evil intention wanted to project their case as premises Tenancy under West Bengal Premises Tenancy Act, 1956 by introducing certain false and untrue and/or fraudulent details such as in Eviction Notice mentioned about SHED

and also whispered in the original plaint in City Civil Court, Calcutta about such SHED and fraudulent wanted to remove such words by perjury and changed the Schedule and certain portion of Paragraph no. 2 in plaint in Small Cause's Court, Calcutta without any application for amendment although not permissible nor under any Order of the Ld. Court. So it is proved and established that the plaintiff/s is/ are guilty of serious foul play fraudulent acts forgery perjury dishonesty in order to establish her/ their fake and false Ejectment Suit by suppression of such facts and truth by distortion falsehood fraud and serious dishonesty all committed on record and the said foul play was pointed out before the Ld. Court in hearing Argument for the Defendants / Ld. Advocate in the matter of Landlord-Tenant relationship.

In terms of the Calcutta Thika Tenancy (Acquisition and Regulation) Act, 1981 was State Government had acquired the ownership of land only and rights of the Zamindars were abolished as provided in and directed by the said Act that the Thika Tenants herein the defendants, as interim arrangement, would deposit rent for the land upon order of the Thika Controller on satisfaction that the Thika Tenant applied for such relief, had satisfied the provisions for deposit of land/ Ground Rent in the Office of the Thika Controller, Calcutta as the case may be and that is complied with by the defendants, not at their whims but under statutory provision i.e., Calcutta Thika Tenancy Act, 1981 and the plaintiffs did not raise objection before the L.R.T.T. by any Appeal till date.

The Thika Controller in Thika Tenancy Act, 1949 and 1981 had all powers to deal with all the aspects of the Thika Tenancy matter dealing with the rent, repairing of SHED, summoning of the Rival/ opposite parties and for all such orders. Accordingly the Thika Controller accepted the defendants as Thika Tenants as interim arrangement under the Calcutta Thika Tenancy (Acquisition and Regulation) Act, 1981 and Rules thereunder acquired the thika land. The plaintiff/s had appeared and contested the matter before the Thika Tenancy Controller but did not raise any dispute/ objection against the Thika Controller's Order to acquire land and to deposit Ground Rent by the Thika Tenants in Government Office as per order as provided for appeal against such Order of Thika Controller under Section 13 of the Calcutta Thika Tenancy (Acquisition and Regulation) Act, 1981 and not to

change the Thika Tenancy case fraudulently as made out in Ejectment Suit No. 37 of 1995.

So, the Calcutta Thika Tenancy (Acquisition and Regulation) Act, 1981 was interim provision for only acquiring the land of the Zamindars by the State Government and upon application by the Zamindar for acquiring land, there could be compensation to the Zamindars at market rate with interest @ 15% thereon (L.A. Act) as provided, but the plaintiffs made out a false ejectment suit by fraudulent way. The plaintiff neither filed any appeal against such Order of the Thika Controller under the Calcutta Thika Tenancy (Acquisition and Regulation) Act, 1981 for acquiring the land and deposit of Ground Rent in Collector's Office and at the same time the plaintiff did not mention about nor made any whisper before the Ld. City Civil Court in Ejectment Suit No. 37 of 1995/ 106 of 1999 about such pendency of the matter of Thika Tenancy and deposit of Land / Ground Rent by the Defendants and/or their predecessors as per Order of Thika Controller in the Office of the Collector, Calcutta and such information was within the knowledge of the plaintiff/s, came out by reply upon the documents/ defendants' Advocate dated 15.09.1994 to the Eviction notice dated 30.07.1994 issued for the plaintiff/s. So, this Ejectment suit no. 37 of 1995 - Ejectment Suit No. 106 of 1999 was filed with total false statements and suppression of facts and not maintainable before a Civil Court and the Government of West Bengal Order / Circular / Notice Dated 12.12.2007 Annexed - marked "C" as prohibition.

It is specifically mentioned in the Calcutta Thika Tenancy (Acquisition and Regulation) Act, 1981 (Section 23) and Thika Tenancy Act, 2001 that any matter of dispute regarding Thika Tenancy, the Civil Court's jurisdiction was discarded under Section - 21 and all powers resting with the Thika Controller under the said Calcutta Thika Tenancy (Acquisition and Regulation) Act, 1981 and then in West Bengal Thika Tenancy Act, 2001.

The plaintiff did not raise any objection against such Order of the Thika Controller under the Calcutta Thika Tenancy (Acquisition and Regulation) Act, 1981 for acquiring the thika land and for deposit Ground Rent by the defendants nor made any Appeal under Section 13 of the Calcutta Thika Tenancy (Acquisition and Regulation) Act, 1981 to L.R.T.T. and at the same time did not make any whisper

about such pendency of Thika Tenancy matter of facts of the defendants' case before the Thika Controller and deposit of rent for the land in the Office of the Collector, Calcutta having sufficient knowledge of the plaintiff/s, prior to filing of the original Ejectment Suit No. 37 of 1995 in City Civil Court. The original plaintiff / Smt. Hira Basu never appeared before the City Civil Court or Small Cause's Court and Thika Tenancy Controller's Office and he Ejectment Suit was fraudulently planned and made out falsely by Smt. Sanchayita Basu her husband Sri Sadhan Kumar Basu her son Prithviraj Basu and finally the present substituted plaintiff Smt. Parichita Basu and all on record in ejectment suit no. 37 of 1995.

Under the Thika Tenancy Act, 1949 and Calcutta Thika Tenancy (Acquisition and Regulation) Act, 1981 and then West Bengal Thika Tenancy (Acquisition and Regulation) Act, 2001 it is further established and provided that Civil Court's jurisdiction regarding such Thika Tenancy matters was totally discarded and ousted under Section 23 respectively. The plaintiff/s had enough and sufficient knowledge that the defendants and/ or their predecessors were Thika Tenants by virtue of receipts of Rent of 'LAND' only and the matter of Thika Tenancy was dealt with by the Thika controller under the Calcutta Thika Tenancy (Acquisition and Regulation) Act, 1981 by Order of deposit of Ground Rent and at the same time by other definition of related matters under the said Act, 1981. The defendants had established that they were the Thika Tenants by various documents most of which were issued by the predecessors - plaintiff/s in the past. The plaintiffs have / had sufficient knowledge and information as per all records and information but the present substituted plaintiff made out manufactured and revealed certain fraudulent forged documents and said that she had no knowledge of such matter.

Defendant is relying upon the following documents in support of his instant application.

(A) Certified copy of Deed of Lease of the Thika Land dated 01.07.1910.

(B) The Bainama Agreement dated 20.12.1928

(C) Certified copy of Sale Deed dated 03.01.1929.

(D) The Ground Rent Receipts approx. 300 issued by Zamindars from 1930 till 1983.

(E) Form No. A Counterpart.

(F) Inspection Report dated 20.04.1992.

(G) Letter dated 27.06.1952.

He prayed that it may graciously be pleased to decide and hold that the plaintiff/s' and the defendant/s' in the context of their respective case records evidence and documents / exhibits in the instant Ejectment Suit pending before this Ld. Court having no cause of action and barred by law particularly in the context of pending matter of Thika Tenancy between the same parties in the same/ similar subject matter before the Thika Controller, the Plaint be rejected with exemplary costs and to passed such other or further order/s as may deem fir and proper.

Plaintiff has verbally challenged and contested the defendant but has not filed any Written Objection against the instant application.

Heard. Considered.

The instant application is filed by defendant for rejection of plaint in accordance with provision under Order VII Rule 11 (a & d) i.e. that plaintiff has no cause of action and the suit is barred by law in context of pending matter of Thika Tenancy before the same parties.

The defendant is relying upon certain documents as mentioned above.

It is settled law that for determination of an application under Order 7 Rule 11 only the plaint and sometime the annexures with plaint only can be taken into consideration not beyond that.

On plain reading of the plaint it appears that instant suit is filed by plaintiff seeking eviction of defendant.

The plaintiff has sufficient cause of action and suit is also maintainable as eviction suit.

On perusal of the plaint, I do not find any whisper that suit property is a Thika Tenant Property.

At this juncture, the documents which are filed by the defendant along with this petition cannot be considered.

*The Court is relying upon the following judgment :-*

***Shaikh Sabir Ali V. Sk. Afsar Ali, 2025(2) ICC (Cal.) 314*** in which it was held that, "*Order 7 Rule 11 - Rejection of plaint - Court is called upon to exercise jurisdiction to reject the plaint u/O. 7 R. 11 CPC, only on averments made in plaint*

*and documents filed along with plaint - Court cannot consider defence plea or materials submitted by defendant for purpose of rejecting plaint".*

Hence, it is

**ORDERED**

That the petition under Order 7 Rule 11 (a) and (d) read with Section 151 of CPC is hereby rejected on contest without any order as to cost.

D/C by me.

Sd/-  
Judge, Bench - II,  
P.S.C. Court, Calcutta.

Sd/-  
Judge, Bench - II,  
P.S.C. Court, Calcutta.

Now the case record is taken up for hearing of the petition under Order 6 Rule 17 of CPC.

Heard the submission of Ld. Advocate for defendant who prays to amend the Written Statement by incorporating the facts as stated in the Schedule of this petition.

The gist of the defendant's submission is that plaintiff has filed the plaint by supporting material fact and suit property is a thika property.

It is further submitted by defendant that defendant are owners of the suit property as prima facie held by the thika Controller. The tenancy case is pending with effect from 12.01.1983. The matter of Thika Tenancy in respect of the said suit premises was first entertained by the Thika Controller vide Return deposit of FROM 'A' under Calcutta Thika Tenancy Act, 1981 dated 12.01.1983 made by the defendants for decision of the Thika Controller to decide prima facie as to the suit premises a Thika land vested in Govt. and held to deposit of rent as of Thika land and that the defendants are held prima facie Thika Tenants as on record. Therefore, the Thika Tenancy case now pending for the same land with effect from 12.01.1983 and prior to this suit. The final decision as to Thika Tenancy was brought in and covered under West Bengal Thika Tenancy Act, 2001 wherein the defendants had also filed their further detailed claim for final decision being Thika case no. 53/44 dated 27.09.1991 under Section 5(3) of the Act, 2001 wherein the plaintiff also appeared and almost hearing completed but from the Thika Office at Gopalnagar Survey Building all Thika cases transferred to the K.M.C. office in the 2023 at 5, S.N. Banerjee Road, Kolkata - 700013 and the matter is due to be finally heard. The plaintiff/s has/ have suppressed all such facts of Thika Tenancy case pending between the parties in this Suit since the Suit was filed in 1995 subsequent to the Thika Tenancy case filed by the defendants.

Plaintiff has not filed any Written Objection but contested the instant application.

Heard. Considered.

Perused the petition under Order 6 Rule 17 of CPC on the case record.

On perusal of the case record, it appears that the instant suit in the year 1995 and defendant files Written Statement.

The defendant has also filed application under Section 17(1) and 17(2) of the West Bengal Premises Tenancy Act challenging the landlord-tenant relationship between the parties, which is determined by order No. 298 dated 16.03.2024, holding that there is existence of landlord-tenant relationship between the parties and defendants are defaulter in payment of rent.

It is pertinent to mention here that at the time of hearing of application under Section 17(1) and 17(2) of West Bengal Premises Tenancy Act defendant has adduced both ocular and documentary evidence, which were considered at the time of passing order under Section 17(1) and 17(2) of West Bengal Premises Tenancy Act.

The said Order No. 298 dated 16.03.2024 is still in force.

Further, the facts which defendant is willing to incorporate in Written Statement are not subsequent events, they were in knowledge of defendant since long but there is no explanation why petition is filed at this belated stage.

Once it is established that there is landlord-tenant relationship between the parties and the said order is neither challenged by defendant not set aside by Ld. Appellate/ Review/ Revision Court in such circumstances, defendant could not challenge the ownership of the plaintiff and relationship between parties by way of amendment.

The amendment sought is not formal in nature and if allowed will change the nature and character of the suit.

Hence, the court is not inclined to allow this petition.

Hence, it is

**ORDERED**

that the petition under Order 6 Rule 17 of CPC is hereby rejected on contest without any order as to cost.

Plaintiff is directed to file amended plaint.

To 06.03.2026 for filing amended plaint by plaintiff.

D/C by me.

Sd/-

Judge, Bench - II,  
P.S.C. Court, Calcutta.

Sd/-

Judge, Bench - II,  
P.S.C. Court, Calcutta.