

EJECTMENT SUIT NO. :- 10 OF 2022
(CNR No. WBPS01-000015-2022)
(JO CODE No. WB01165)

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

Order no. - 19
Dt. 06.03.2025

Today is fixed for hearing petition under Order 39 Rule 7 of CPC i/d framing of issue.

Both parties filed hazira.

Heard the Ld. Advocate for the plaintiff who submitted that in order to ascertain the accommodation of plaintiff and also the defendant over the suit premises, the same is required to be inspected as per the points given in the schedule of the said petition.

Ld. Advocate for defendant raised objection regarding the commission work.

Heard. Considered.

Perused the instant petition and materials on record.

Considering the materials on record, I find that plaintiff has filed the suit for recovery of khas possession on various grounds. In consideration of the materials on record, it appears to this court that for the better appreciation of the matter in dispute, there is a need for the physical verification of the accommodation under the possession of the plaintiff and the defendant and also the present condition of the suit premises and for proper determination of the suit, the commission work is necessary.

Hence, at this stage, the said property is required to be inspected by the commissioner to find out the real dispute between the parties and the said will not cause any prejudice to the parties.

In view of the above observation, I am inclined to allow the prayer of the plaintiff as sought for.

Hence, it is

ORDERED

that petition under Order 39 Rule 7 of CPC supported by an affidavit filed by the plaintiff is hereby allowed on contest.

Tarun Basu, Learned Advocate is here by appointed as Advocate Commissioner to hold the inspection in terms of the points mentioned in the petition and also to mention the accommodation of the parties in the suit property after due service of the notices upon the parties through their respective advocates. The learned Commissioner is further directed to file the report by the next day positively.

Plaintiff is hereby directed to deposit the cost of Rs.10,000/- to the Ld. Commissioner within ten days from the date of this order and to file receipt thereof.

After filing of the receipt of payment of cost of commissioner, writ will be issued and Ld. Commissioner is directed to hold the commission work according to the writ and to note the features of the suit premises and to note features as indicate by the plaintiff as well as the defendant and to submit the report according to the schedule of the writ within the date fixed.

Plaintiff filed another petition praying for withdrawal of rent on the ground stated therein.

The petition is heard, considered and allowed.

The plaintiff is permitted to withdraw rent, deposited by the defendant in the court (if any) through his lawyer at his own risk.

Thus, the petitions is thus disposed off.

To 31.03.2025 for payment of fees of Ld. Advocate Commissioner by the plaintiffs.

To 05.04.2025 for issue of writ.

To 06.05.2025 for commission report.

D/C by me.

Sd/-

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

Sd/-

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