

EJECTMENT SUIT NO. 145 OF 2008
C. N. R. NO. WBPS01-000641-2008
Before Smt. A. Bhattacharya, Ld. Judge, 5th Bench.

ORDER NO.85 DATED 27.02.2025

The record is placed before me today in view of one Put-up petition filed by the Ld. Engineer Commissioner.

Ld. Engineer Commissioner has also filed one petition stating that on 17.02.2025, he after serving notice to all parties and their ld. Advocates went to the locale and waited there for 20 minutes and initialised the commission work seeing none turned up. Thereafter, ld. Advocate for the defendant accompanied by defendant nos. 3 and 4 came and participated in the proceeding of commission. At the outset, ld. Advocate for the defendants, by filing a petition after serving copy of the same to the ld. Advocate for the plaintiff, prayed for adjournment for the day. Ld. Senior Advocate for the defendants also prayed for adjournment over telephone to which he stated in a rider that he will simply walk over the disputed property for the purpose of its identification and formation of a first hand knowledge in regard to the peripheral limit of the tenancy. In presence of all, it was settled that since the petitioner is not going to deal with any of the commission points, he will first complete the writing parts and thereafter verify the tenancy portion and leave the premises. That all hell broke loose when the plaintiff's son appeared and wanted to narrate something about illegal construction of aviary in the first floor terrace and soon the scene turned into bedlam. Ld. Advocates for both sides tried to pacify the same but at last left the spot when the situation became out of their control. Upon receiving call, one Smt. Pampa Sarkar, A.S.I. along with one male and another female Constables of Park Street P.S. came and intervened and drew away the involved parties and requested the petitioner to meet O.C., Park Street P.S. and lodge a diary to the effect. Thereafter, the petitioner ld. Advocates for both sides and parties came to the Park Street P.S. and lodged a diary being 1500 dated 17.02.2025 annexing the copy of the writ and as such, praying for an order for direction upon parties to this suit as well as the O.C., Park Street Police Station assistance of posse of police in proceeding with the commission work on the ground stated therein. Copy served.

On the other hand, written objection is filed on behalf of the defendants stating the application is not legally maintainable and barred by law. Ld. Engineer Commissioner has not come up with clean hands and made baseless and mischievous allegations against the defendants. Ld. Junior Advocate namely Mr. Bishal Halder for the defendants went to the door of the plaintiff's flat and submitted one petition for adjournment of the commission work. Defendants requested the ld. Engineer Commissioner to postpone and adjourn the commission on the ground of absence of ld. Advocate for the defendants for the purpose of

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performing religious sacred snan at Mahakumbh but in spite of that, ld. Advocate for the Plaintiffs vehemently opposed such submission. It is denied and disputed that all hell broke loose on the appearance of plaintiff's son as the plaintiff and his sons also reacted with the similar tone and prayed for passing necessary order.

Heard ld. Advocates for both sides as well as ld. Engineer Commissioner.

Perused the petition, written objection and the materials on record.

At this stage, I am not inclined to go into the merits of the allegations made in the petition submitted by Ld. Commissioner. The fact as to whether any untoward incident had happened or not is not relevant to decide in this suit. But it is necessary that the Inspection Commission is required to be concluded peacefully and within time specified. For such purpose, this Court has the jurisdiction to direct the local P.S. to render all assistance to Ld. Commissioner so that he can hold his Commission work peacefully. It is also necessary that the commission must be held peacefully as it is essential for the Court to come to a just conclusion.

Accordingly Ld. Commissioner is directed to hold local investigation of the suit property on **19.03.2025**, **21.03.2025** and **25.03.2025** after service of notice upon both parties and their respective Ld. Advocates and to submit a report thereof positively on the date fixed.

O.C./I.C. Park Street P.S. is directed to render all assistance to Ld. Commissioner on all the dates of holding Investigation by Ld. Commissioner so that he can do his work in compliance with the direction of this Court peacefully without any obstruction whatsoever from either of the parties.

Let a copy of this order be given to Ld. Commissioner Sri Samar Banerjee for his information.

Let another copy of this order be sent to O.C./I.C. Park Street P.S. for compliance.

Let another copy of this order be sent to Deputy Commissioner of Police (South), Kolkata for information.

To date (28.03.2025) for Submission of Commissioner's report.

DICTATED AND CORRECTED BY ME,

JUDGE

JUDGE
[5TH BENCH]