

**Ejectment Suit No. 92 of 2023**  
**CIS No. WBPS01-000196-2023**

**Order No. 17**

**Dated 16.05.2025**

Today is fixed for hearing of the petition dtd. 29.07.2024. under Order 6, Rule-17 of the CPC filed by the defendant.

Both sides filed hazira through their Ld. Advocates.

The application Under Order-6, Rule-17 r/w Section 151 of the CPC is taken up for hearing.

Heard the Ld. Lawyer for the defendant who submitted that the Title Suit No. 241 of 2003 is pending before the Ld. 8<sup>th</sup> Bench, City Civil Court, Calcutta between Rajib Dey and the plaintiff Prasenjit Dey which was concealed by the plaintiff and the said fact of the pendency of the suit between the co-owners are required to be incorporated in the written statement for arriving at the conclusive finding of the suit, hence, prays for amendment of the written statement. The defendant has further submitted that before or after Durga Puja in the year 2022, the plaintiff inducted various tenants on the entire 3<sup>rd</sup> floor and approximately half portion of the 2nd floor despite the fact that one of the ground for eviction is reasonably requirement.

The plaintiff has submitted his written objection and submitted this day that he is one of the co-owners and admittedly there are other co-owners in the suit premises and all of them have separate allotments. It is further submitted that the T.A. No. 241 of 2003 had been instituted against him by one of the co-sharers seeking partition and at present the said suit has been amicably settled between the parties and on the prayer of the plaintiff the Ld. Court vide order no. 15, dated 19.02.2025 dismissed the suit for non-prosecution.

The copy of the order was produced this day for the perusal of the court.

It appears that the T.A. 241 of 2003 has already been disposed of for non prosecution and plaintiff has already admitted in the plaint that he is one of the co owners. Hence there is no reason for the said alleged fact to be incorporated in the written statement. The instant suit has been filed on 19.04.2023 and the alleged induction of tenants in the suit building is said to have occurred prior to the institution of the suit. Further no details of such alleged induction has been given by the defendant. I find no merit in the application filed by the defendant under order 6 Rule 17 of the CPC. Hence, the petition under Order 6, Rule-17 of the CPC filed by the defendant dtd. 29.07.2024 is hereby rejected on contest.

Fixing **07.08.2025** for peremptory hearing of the suit, discovery if any, in the meantime.

Dictated and corrected by me:

Judge

Smt. Gladys Bomjan  
(J.O. Code: 01039)  
Judge, 3rd Bench  
Presidency Small Cause Court,  
Calcutta