

Ejectment Suit 148 of 2021 .

[CNR WBPS01 000287 2021]

Before – Sonia Majumdar- Ld. Chief Judge.

Order No:-10.

15/11/2022.

Today is fixed for hearing of petition u/o-39 Rule 7 read with Section 151 of C.P Code dated 20-07-2022 , w/o if any in the mean time and framing of issues with further direction upon the plaintiff to serve copy of the petition upon the defendant in the mean time as well as framing of issues.

Both parties file haziras. Parties are found present through their respective Ld. Advocates. Ld. Advocate for the defendant received copy of the application u/o-39 Rule 7 of C.P Code dated 20-07-2022 from the record with endorsement. The petition is taken up for hearing.

At the time of hearing, Ld lawyer for the plaintiff submits in terms of the averments made in his application and has prayed for allowing his petition for local inspection.

No W/O has been filed by the defendant against the instant petition. At the time of hearing , Ld. Advocate for the defendant raised formal objection.

Heard both sides. Perused the petition, plaint, written statement and materials on record.

Perusal of the plaint reveals that plaintiff has filed in the instant suit for eviction against the defendant from the suit premises on the ground of reasonable requirement of the suit premises along with other grounds . On the contrary, Defendant has denied the same in his written statement.

So, in order to ascertain the actual accommodation available to the parties , and in order to properly adjudicate the real dispute between the parties, local inspection of the premises in question is necessary. Terms as mentioned in the schedule of the instant application also appears to be legal.

As such, considering such facts and circumstances, I find no reason not to allow the prayer of the plaintiff .

p.t.o.....

Accordingly , it is,

Ordered

That the petition u/o- 39 Rule 7 read with Section 151 of C.P Code dt 20-07-2022 filed by the plaintiff is hereby allowed on contest but without cost.

Let Sri. TARUN BASU practicing advocate of this Bar be appointed as Ld Commissioner to hold inspection in respect of the suit premises, subject to payment of cost Rs. 7,000/- by the plaintiff towards the fees of the Ld. Commissioner .

Ld Commissioner is directed to visit the locale after due service of notice upon both sides as well as their ld advocates well in advance and conduct the commission work in presence of both parties in accordance with law in terms of the schedule mentioned in the application, and submit a report thereof before the Court, preferably within one month from the date of receipt of the writ.

Ld. Commissioner is also directed not to collect any evidence under any circumstances or to act which is not within the ambit of his work .

Plaintiff is directed to supply copy of the instant application, and other necessary documents which shall be required to facilitate the commission work to the Ld Commissioner.

Both parties are directed to extend full cooperation to the Ld. Commissioner in completion of the Local Inspection. Issues are not framed today.

To (20-12-2022) for filing receipt showing payment of cost by the plaintiff, and framing of issues.

Dictated & Corrected

by me

Chief Judge.

Chief Judge.

J.O .Code:- WB 01128.