

ORDER NO.55 dt.08/09/22

Today is the date fixed for hearing of the plaintiff's petition u/o 39 rule 7 CPC praying for local inspection on the points mentioned in the schedule of the plaint.

The defendant filed written objection.

Heard both sides. The plaintiff prayed for inspection and measurement of the existing accommodation of the plaintiff and defendant. The defendant raised objection on the plea that trial of this suit has already been started and after part cross examination of PW1, the said PW1 died and thereafter PW2 examined in full and cross examined in part. At this stage local inspection cannot be allowed, otherwise it would fill up the lacuna and the right which has already been accrued to the defendant will be curtailed.

There is no time limit in local inspection. Moreover the object of Order 39 rule 7 is keeping on record the existing condition of the property (2002 (1) CHN 267). And for the purpose of proper adjudication of this case, as this is a suit for eviction of a monthly tenant the prayer of local inspection should be allowed. Accordingly the plaintiff's petition u/o 39 rule 7 read with section 151 CPC is hereby allowed.

Let Miss Tania Sen be appointed as a Advocate commissioner for that purpose.

The plaintiff is hereby directed to pay a sum of Rs.6000/- to the Ld. Commissioner.

To 16/09/22 for filing receipt showing payment of commission cost and thereafter writ of local inspection will be issued.

D/C by me

Judge, 4th Bench

Judge.