

EJECTMENT SUIT NO. 252 of 2021
C.N.R No. WBPS01-000444-2021

IN THE 4TH BENCH, PRESIDENCY SMALL CAUSE COURT
PRESENT: SMT. ARCHITA SEN, JUDGE BENCH-4, PRESIDENCY
SMALL CAUSE COURT.

ORDER NO- 20
DATED 06-01-2025:

Today is fixed for hearing of the petition dated 07.05.2024 under Order XXXIX Rule 7 of C.P.C. Plaintiffs as well as defendant file separate attendance through their respective Ld. Advocates. Defendant files written objection against the aforesaid petition.

The said petition is taken up for hearing.

Heard both sides in full.

Perused the record including the instant petition and the written objection.

Considered.

The objection raised by the defendant against the prayer for appointment of Advocate Commissioner is formal in nature. It is submitted on behalf of the defendant that the plaintiffs have not asked for the commission of the accommodation available to the defendant.

The record revealed that the plaintiffs have filed the instant suit on the ground of reasonable requirement. It is the settled position of Law that whether the landlord requires the suit premises for his own use and occupation or not, is a mixed question of law and fact. In considering the requirement of the landlord, the total accommodation has to be computed. The plaintiffs claimed that they required the suit premises for the purpose of setting up a workshop for manufacturing the gold, silver and costume jewellery. So in order to adjudicate the requirement of the plaintiffs ascertainment of the real scenario is necessary, for which this Court thinks that the prayer of the plaintiffs needs to be allowed. It will also help in appreciating the dispute in hand and for that reason the inspection report may come in aid for just disposal of the suit and thereby mitigating substantive justice. So far as the objection raised by the defendant is concerned, it is to be stated that the plaintiffs also prayed for the inspection of the suit premises that means the accommodation of the defendant at the suit building.

In the opinion of the Court, the points that are being forwarded for the inspection, do not appear to be an attempt of fishing out of evidence looked from this stage of the case.

In view of such circumstances, this Court intends to pass the following order--

ORDERED

That let Soma Mukhopadhyay learned Advocate of the Presidency Small Causes Court, Calcutta Bar Association be appointed as the learned Pleader Commissioner for the purpose of this case.

Her fees, considering the work and distance, is fixed at **₹8000/-** which is to be paid by the plaintiffs. The plaintiffs are directed to deposit the fees of the Ld. Pleader commissioner to her by hand within 15 days hereof.

Writ will be issued on payment of fees.

On receipt of writ the learned commissioner is required to do the needful inspection in respect of the points as stated in the petition dated 07.05.2024, after duly notifying the parties and/or their respective pleaders.

The learned commissioner is requested to submit her report by the next date positively.

The plaintiffs are directed to submit the relevant papers within 15 days hereof failing which necessary orders shall be passed.

The petition under order XXXIX Rule 7 of the Code of Civil Procedure is thus disposed of on contest and without any costs.

To 13.03.2025 for commissioner's report and steps by the plaintiffs in meantime.

Typed, Corrected and Printed by me.

Judge, Bench-4
Presidency Small Cause Court.
J.O Code WB01174

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