

Ejectment Suit No. - 178 of 2024
CIS No. : WBPS01-000352-2024

Order No.- 12
04.08.2025

Today is fixed for hearing of the petition under Order-39, Rule 7 of the CPC r/w Section 151 of the CPC filed by the plaintiff dtd. 05.05.2025, written objection, if any, in the meantime.

Both filed hazira through their Ld. Advocates.

Defendant filed written objection to the plaintiff's application under Order-39, Rule-7 of CPC. Copy served.

Now record is taken up for hearing of application under Order-39, Rule-7 read with Section 151 of the CPC filed by the plaintiff dated. 05.05.2025

Heard.

Perused.

The plaintiffs have filed the present petition praying for local inspection/commission at the premises no. 17, Kashi Dutta Street, Kolkata – 700006 to ascertain the possession of the plaintiffs as well as the defendant therein.

The defendant raised objection and further added that the plaintiffs have many properties in their personal names including two flats at premises no. 21, Kashi Dutta Street, Kolkata - 700006 and prayed that the commission be held at the above premises as well to ascertain the accommodation of the plaintiffs.

Generally when there is an eviction suit, the application under order 39 rule 7 of the CPC is allowed if the ground of eviction is reasonable requirement of the plaintiff of the suit premises. This is because it becomes necessary for ascertaining the availability of the suitable accommodation for just decision of the suit. I find that one of the grounds for eviction is reasonable requirements of the plaintiffs and the points mentioned in the schedule of the application are necessary for determination of the actual accommodation of the plaintiffs and the defendant in the suit building.

Regarding the prayer of the defendant for inspection at the premises no. 21B, Kashi Dutta Street, Kolkata – 700006, it appears that in paragraph no. 6 of the plaint, the plaintiffs have mentioned that the plaintiff no. 4 has a grocery shop in the rented accommodation at the premises no. 21B, Kashi Dutta Street, Kolkata – 700006 and now the defendant alleges that the plaintiffs have the ownership property at the above premises but no documents have been filed by the defendant to prima-facie show that the plaintiffs have ownership property at the above address. Hence, I am not inclined to allow the prayer of the defendant. Furthermore, if the plaintiffs have concealed or suppressed their ownership accommodation which they are not getting inspected, they would suffer the consequences.

In view of the above, it is,

O R D E R E D,

that the petition u/o-39, rule-7 r/w section 151 of C.P.C. dated 05.05.2025 is hereby allowed on contest in respect of all the points.

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Tarun Basu Ld. Advocate of this Court is hereby appointed Advocate Commissioner to hold local inspection in terms of the petition.

Plaintiffs are directed to hand over Rs. 10,000/- (ten thousand) towards fees of the Ld. Advocate Commissioner and file receipt within 15 (fifteen) days from the date of this order.

Plaintiffs are directed to supply a copy of the petition u/o-39, rule-7 r/w section 151 of C.P.C. dated 05.05.2025 to the Ld. Advocate Commissioner.

Ld. Advocate Commissioner is directed to go to the locale after serving due notice upon both sides, to hold local inspection in terms of all the points and submit report with 1 (one) month from the date of issuance of writ.

Let a copy of this order be served upon the Advocate Commissioner free of cost.

Issue writ accordingly.

To **25.09.2025** for filling Advocate Commissioner's report.

Dictated and corrected by me:

Judge

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