

## Ejectment Suit No. - 461 of 2013

Order No.- 39

09.08.2018

Both sides present by filing hazira.

Record is taken up for hearing.

Heard both sides.

Perused petition, written objection and other materials on record.

Considered.

This is an application under Order 39 Rule 7, r/w section 151 of C.P.C. dated 01.05.2018 filed by the plaintiffs.

The plaintiffs have filed the present petition for local inspection/commission on the points:-

- a) To visit the plaintiffs place of business at 55, Ezra Street, Kolkata – 700001 and note down the number of room, nature of accommodation and the mode of user,
- b) To visit the suit premises being defendant's room at premises no. 55, Ezra Street, Kolkata – 700001 and take the measurement of the same, note down condition and the nature of the user,
- c) Local features,
- d) Such other thing as may be pointed by the Ld. Advocates or the representatives of the parties.

Ld. Advocate on behalf of the defendant raised objection against the petition on ground that the plaintiffs filed the present application for fishing out evidence.

I find that the points mentioned in the schedule of the application are necessary for determination of the actual condition and accommodation of the plaintiffs and defendants in the suit building.

I consider that the instant petition need be allowed in respect of all the points mentioned therein.

Hence, it is,

### **ORDERED,**

that the petition petition u/o-39, rule-7 r/w section 151 of C.P.C. dated 01.05.2018 is hereby allowed on contest in respect of all the points.

**Ishita Raut** 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. 5000/- towards fees of the Ld. Advocate Commissioner and file receipt.

Plaintiffs are directed to supply a copy of the plaint, petition u/o-39, rule-7 r/w section 151 of C.P.C. dated 01.05.2018 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.

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

Issue writ accordingly.

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

Sd/- Smt. Shrutirupa Ghosh  
Judge, 3<sup>rd</sup> Bench.

Dictated and corrected by me:  
Sd/- Smt. Shrutirupa Ghosh  
Judge