

EJECTMENT SUIT NO :- 153 OF 2020
(CNR No. WBPS01-000264-2020)
(JO CODE No. WB01229)

Order no. - 21
Dt. 18.03.2023

Today is fixed for hearing of the petition dated 24.01.2023 under Order 39 Rule 7 of CPC read with Section 151 of CPC filed by the plaintiffs.

Both parties file hazira.

Written objection is filed by the defendant.

Plaintiffs file supplementary affidavit.

Heard Ld. Advocate for the plaintiffs who submitted that in order to ascertain the accommodation of plaintiffs and also the defendant over the suit premises, the same is required to be inspected as per the points given in the said petition.

Heard Ld. Advocate for the defendant who after filing written objection and submitted that plaintiffs have suppressed the fact and avoided to mention in the petition some other vital and important residential accommodation under possession and enjoyment of the plaintiffs and has been left out in the application of the plaintiffs and preyed for rejection of the same.

Considered.

Perused the instant petition, written objection and other materials on record.

Considering the materials on record, I find that plaintiffs have filed the suit for recovery of khas possession on the ground of reasonable requirement. In consideration of the materials on record, it appears to this court that for the better appreciation of the matter in dispute, there is a need for the physical verification of the accommodation under the possession of the plaintiffs and the defendant and also the present condition of the suit premises. Hence, at this stage the said property is required to be inspected by the commissioner to find out the real dispute between the parties and the said does not cause any

prejudice to the parties.

In view of the above observation, I am inclined to allow the prayer of the plaintiffs as sought for.

Hence, it is

ORDERED

that the petition dated 24.01.2023 under Order 39 Rule 7 of CPC read with Section 151 of CPC filed by the plaintiffs is allowed on contest.

Let this affidavit filed today be part of the said application.

Dipa Bhaduri, Learned Advocate is here by appointed as Advocate Commissioner to hold the inspection in terms of the points mentioned in the petition and also to mention the accommodation of the parties in the suit property after due service of the notices upon the parties through their respective advocates. The learned Commissioner is further directed to file the report by the next day positively.

Plaintiffs are hereby directed to deposit the cost of Rs.8,000/- to the Ld. Commissioner within ten days from the date of this order and to file receipt thereof.

After filing of the receipt of payment of cost of commissioner, writ will be issued immediately and Ld. Commissioner is directed to hold the commission work according to the writ without granting any type of adjournment and to note the features of the suit premises and to note features as indicate by the plaintiffs as well as the defendant and to submit the report according to the schedule of the writ within the date fixed.

To 18.05.2023 for commission report.

[Dictated and corrected by me]

Sd/-

(Manabendra Nath Ghosh)
Judge, Bench – II,
Presidency Small Cause Court,
Calcutta.

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