

**EJECTMENT SUIT NO. 219 of 2019**  
**C.N.R No. WBPS01-000595-2019**

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

**ORDER NO- 40**  
**DATED 11-12-2024:**

Today is fixed for hearing of the petition dated 06.05.2024 under Order XXXIX Rule 7 of C.P.C. Plaintiffs as well as defendant file separate attendance through their respective Ld. Advocates.

The said petition is taken up for hearing.

Heard the Ld. Advocates for both sides in full.

Perused the record including the instant petition.

Considered.

No written objection has been filed by the defendant against the aforesaid petition. Ld. Advocate for the defendant submitted that he has no objection is the prayer for local inspection is allowed in favour of the plaintiffs.

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 several bed rooms, study rooms, kitchen, dining rooms, drawing rooms and other rooms are required for the plaintiffs and their family. 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.

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 Dipak Kumar Das, a member of Presidency Small Causes Court, Calcutta Bar Association, learned Advocate of the be appointed as the learned Pleader Commissioner for the purpose of this case.

His fees, considering the work and distance, is fixed at ₹8000/- which is to be paid by the plaintiffs. The plaintiffs are directed to pay the fees of the Ld. Pleader commissioner to him 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 06.05.2024, 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 13/02/2025 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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