

**EJECTMENT SUIT NO. 232 of 2019**  
**C.N.R No. WBPS01-000618-2019**

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

**ORDER NO- 30**  
**DATED 24-09-2024:**

Today is fixed for hearing of the petition dated 30/07/2024 under Order XXXIX Rule 7 of C.P.C. Plaintiff as well as defendant file separate attendance through their respective Ld. Advocates.

The defendant files written objection against the petition for local inspection.

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 Ld. Advocate for the defendant raised strong objection against the prayer of the plaintiff on the ground that the plaintiff has other three accommodations which should also be inspected for the purpose of proper adjudication. But the plaintiff has not included those properties within the instant petition.

The record revealed that the plaintiff has filed the instant suit on the ground of default in the payment of rent and reasonable requirement. It is the settled position of Law that whether the landlord requires the suit premises for her 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 plaintiff claimed that three separate bed rooms, one dining room, one drawing room, one Thakurghar, one bath and privy are required as her family consists of her son, his wife and two grand children. So in order to adjudicate the requirement of the plaintiff ascertainment of the real scenario is necessary, for which this Court thinks that the prayer of the plaintiff 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 contention of the defendant is concerned it is to be deciphered that the defendant contended in the written statement that the plaintiff has three other accommodation within Kolkata. So it is his case that the plaintiff has other properties. If the defendant thinks it necessary to inspect the properties as mentioned in his written statement then he can file an application for that. The instant petition was filed by the plaintiff with the prayer for local inspection of the suit premises and the present accommodation of the plaintiff. It is the prerogative of the plaintiff to decide how to establish or prove her case. So this Court finds that the grounds of objection are not feasible enough to reject the prayer of the plaintiff.

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 suit.

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

**ORDERED**

That let Rituparna Ghosh learned Advocate of the Presidency Small Causes Court 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 ₹6000/- which is to be paid by the plaintiff. The plaintiff is directed to deposit the fees of the Ld. Pleader commissioner 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 30/07/2024, 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 plaintiff is 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 18/12/2024 for commissioner's report and steps by the plaintiff in meantime.

Typed, Corrected and Printed by me.

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

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