

EJECTMENT SUIT NO :- 241/2017
(CNR No. WBPS01-000619-2017)
(JO CODE No. WB01229)

Order no. - 38
Dt. 13.01.2022

Today is fixed for hearing of petition dated 04.02.2021 under Order 39 Rule 7 read with Section 151 of CPC.

Both side file hazira.

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

None appears on behalf of the defendant.

Considered.

Resolution dated 03.01.2022 was taken up by Local Bar.

Seen the notice dated 01.01.2022 of Hon'ble High Court at Calcutta.

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

Considering the material on record, I find that plaintiff has 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 plaintiff 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 plaintiff as sought for.

Hence, it is

ORDERED

that petition dated 04.02.2021 under Order 39 Rule 7 of CPC read with Section 151 of CPC supported by an affidavit filed by the plaintiff is allowed on contest.

Dipa Bhaduri Learned Commissioner is here by appointed 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.

Upon deposit of cost of Rs.8000/- and filing of requisite, writ will be issued to the Commissioner **Dipa Bhaduri** with a request to hold the commission work according to the writ and to note the features of the suit premises and to note features

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as indicate by the plaintiff as well as the defendant and to submit the report according to the schedule of the writ within the date fixed.

Plaintiff is directed to submit receipt regarding payment of cost of the Ld. Commissioner.

Ld. Advocate for the defendant no. 1. 2. 3 and 4 appeared before this court virtually and submitted that one petition under Section 151 of CPC filed by the defendants on 04.02.2021 is till pending before this court for hearing and he wants to submit his contention virtually.

Now the petition under Section 151 of CPC filed by the defendant is taken up for hearing virtually,

Heard Ld. Advocate for the defendant who submitted that this court disposed of the application under Section 7(2) of the W.B.P.T. Act on 18.02.2020 and directing the defendant to pay rent from the month of September, 2015 for 53 months at the rate of Rs. 1250/- per month totally of Rs. 66,250/- along with statutory interest at the rate of 10% in total of Rs. 72,875/- and the defendant was further directed to pay sum of Rs. 1625 per month since the month of March, 2020 and Ld. Advocate for the defendant further submitted that the defendants were depositing monthly rent at the rate of Rs. 375/- per month to the credit of the plaintiff in the instant suit and the same is continuing as per the order of the Ld. Chief Judge vide order 21.08.2017 and now the defendants intends to deposit the deficit rent of Rs. 13,750/- from March, 2020 to January, 2021 and also to deposit the current rent at the rate of Rs. 1625/- per month from the month of February 2021 till date and he further submitted that due to the outbreak of Pandemic Covid – 19, the defendants could not deposit the amount as order by this court and also failed to comply the said order which was total unintentional and also without ill motive.

Ld. Advocate for the defendants referred the decision of the Hon'ble Supreme Court in Suo Motu Writ Petition (c) 3 of 2020 and submitted that the Hon'ble court has been pleased to extend the period of limitation till 28.02.2022 considering the prevailing circumstances of Pandemic Covid – 19.

Hence, Ld. Advocate for the defendant has prayed for passing necessary order to deposit the rent as stated in the instant petition.

Ld. Advocate for the plaintiff has objected the said application and submitted that there is no scope for allowing the instant petition according to Law.

Considered.

Perused the material on record.

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On perusal of the same it appears that the defendant has paid rent at the rate of Rs. 375/- per month since January, 2020 but as per the submission of Ld. Advocate no rent receipt regarding the month of February, 2020 has been submitted by the defendant. It appears from the order of the Hon'ble Supreme Court and order of the Hon'ble High Court at Calcutta, this court is of the view that the Hon'ble Courts have been pleased to extend the period of limitation considering the prevailing circumstances of Pandemic Covid- 19.

Considering the materials on record and also the order passed by the Hon'ble court the petition under Section 151 filed by the defendant is hereby allowed.

Defendant is hereby directed to pay the sum of Rs. 72,875/- as arrear rent for 53 months from the month of September, 2015 to February, 2020.

They are further directed that to pay Rs. 13750/- as deficit rent from the period of March, 2020 to January, 2021 for 11 months @ 1250/- per month.

They are further directed to pay current rent @ 1625/- per moth from the month of February, 2021 till date.

It appears that defendant did not file challan of February, 2020. They are directed to deposit the same.

To **04.03.2022** for commissioner report.

Ld. Commissioner is directed to submit her report as early as possible.

Sd/-

Judge, Bench – II,
P.S.C. Court, Calcutta.