

**EJECTMENT SUIT NO. 380 of 2022**  
**C.N.R No. WBPS01-000664-2022**

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

**ORDER NO- 17**  
**DATED 25.03.2025:**

Today is fixed for hearing of the petition dated 19.02.2024 for local inspection and the petition under section-7(2) of the Act. Plaintiff as well as defendant file separate attendance through their respective Ld. Advocates.

Ld. Advocate for the defendant files a petition with a prayer for time for hearing of the petition under section-7(2) of the Act.

The prayer is allowed.

Now the record is taken up for hearing of the petition dated 19.02.2024 for local inspection.

Heard both sides in full. Perused the record including the instant petition and the written objection.

Considered.

The petition contemplates an Order appointing an Advocate for holding local inspection at the suit premises on the points mentioned in the petition. Ld. Advocate for the plaintiff submitted that the points mentioned in the petition are formal in nature and do not amount to fish out evidence.

Ld. Advocate for the defendant raised strong objection against the petition of the plaintiff and in that written objection the defendant denied all the allegations and contentions of the plaintiff. It is submitted on behalf of the defendant that the defendant is not storing hazardous articles at the suit premises. But the plaintiff has filed this petition only to make out some additional grounds for eviction and to fish out evidence.

The record revealed that the plaintiff has filed the instant suit on the ground of default in the payment of rent and reasonable requirement. But the plaintiff also alleged that the defendant is not using the suit premises for the purpose for which it was let out but the suit premises is being used as godown by the defendant. Now the plaintiff's wants an Order for holding local inspection at the suit premises for ascertaining whether the defendant is engaged in storing materials like a godown at the suit premises or not or whether any unauthorized construction has been done by the defendant at the suit premises or not. But the purpose of the local inspection is to bring the actual scenario of the suit premises before the Court; not to find out who has done the wrong, i.e. the unauthorized construction or storing of materials at the suit premises. The Advocate Commissioner can go to the spot and inspect the suit premises in order to portray the present condition of the same before the Court through his report but he is not supposed to fix up any liability to any party to the suit if he finds something wrong done at the suit premises. So point no. (a) and (d) appear to this Court to be the attempt of the plaintiff to collect evidence. For that reason this Court is not inclined to allow the inspection on those two points. But so far as the other points are concerned, the prayer of the plaintiff shall be allowed because it will help in proper adjudication of the suit.

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

**ORDERED**

That the petition dated 19.02.2024 for local inspection filed by the plaintiff is partly allowed. The prayer for local inspection on point no.(a) and (d) of the instant petition is rejected.

That let Jyoti Muhury learned Advocate of the Bar Association of Presidency Small Causes Court, Calcutta be appointed as the learned Pleader Commissioner for the purpose of this case.

Her fees, considering the work and distance, is fixed at **₹8000/-** which is to be paid by the plaintiff. The plaintiff is directed to pay the fees of the Ld. Pleader commissioner to her 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 point no. (b) and (c) as stated in the petition dated 19.02.2024, 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.

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The petition under order XXXIX Rule 7 of the Code of Civil Procedure is thus disposed of on contest and without any costs.

To 18-06-2025 for commissioner's report, steps by the plaintiff in meantime and hearing of the petition under section-7(2) of the Act.

Typed, Corrected and Printed by me.

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

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