

Ejectment Suit 328 of 2024.
(CNR No. WBPS01-000667-2024.
Before Smt Chandrani Mukherjee Banerjee Ld. Chief Judge.

10.
18/12/2025.

Today is fixed for hearing of application filed by the plaintiff u/o-39 Rule 7 of C.P Code dated 21-06-2025, w/o , if any in the mean time.

Both parties file haziras.

Defendant files written objection against the plaintiff's application u/o- 39 Rule 7 od C. P C filed by the plaintiff today . Copy served. Let the same be kept with the case record.

Ld. Advocates for the contesting parties are found present at the time of hearing.

The application u/o-39 Rule 7 of C.P Code filed by the plaintiff dated 21-06-2025 is taken up for hearing.

Heard both sides. Perused the petition, its W/O filed by the defendant today as well as materials on record.

Considered.

By filing the application u/o-39 Rule 7 read with Section 151 of C.P Code dated 21-06-2025, plaintiff has prayed for appointment of an Advocate Commissioner to hold inspection and take note of measurement, mode etc of the accommodations available to the plaintiff as well as defendant in respect of the suit property in terms of the schedule mentioned in the application since the plaintiffs have filed the instant suit on the ground of reasonable requirement along with other grounds.

At the time of hearing , Ld. Advocate for the plaintiffs prayed for allowing his application.

Against the application , defendant has filed W/O today denying all the materials contended therein.

At the time of hearing, Ld. Advocate for the defendant argued in terms of the Written Objection and further submitted that the plaintiff has many other alternative accommodations which he has concealed. He prayed for rejection of the petition.

Heard both sides.

Perusal of the plaint reveals that plaintiff has filed the instant suit for eviction of the defendant from the suit premises on the ground of reasonable requirement of the suit premises along with other grounds. On the contrary, defendant has denied the same in his written statement.

Therefore, in order to ascertain the actual accommodation available to the parties , and in order to fairly adjudicate the real dispute involved between the parties, local inspection of the premises in question is found necessary.

Regarding the allegation of the defendant that the plaintiff has many other alternative accommodations elsewhere, the defendant is always at liberty to adduce evidence in this respect before the Court at the time of Trial and in that event, plaintiff shall face its legal consequences if the same is established by the defendant. This Court at this stage does not find any justifiable ground not to allow the plaintiff's application on that score.

Accordingly ,

it is,

Ordered

That the petition u/o- 39 Rule 7 read with Section 151 of C.P Code dt 21-06-2025 filed by the plaintiff is hereby allowed on contest but without cost .

Let Smt Lakshmi Prasad (Enrolment No F/1598/2013), a practicing advocate of this Bar be appointed as Ld Commissioner to hold inspection in terms of the schedule mentioned in the instant application subject to payment of cost of Rs. 6,500/- by the plaintiff towards the fees of the Ld. Commissioner.

Ld commissioner is directed to visit the locale after due service of notice upon both sides as well as their Ld advocates well in advance and conduct the commission work in presence of both parties in accordance with law in terms of the schedule of the application and submit a report thereof before the Court, preferably within one month from the date of receipt of the writ.

Parties are directed to supply copy of the instant application, plaint, and other necessary documents which shall be required to facilitate the commission work to the Ld Commissioner.

Both parties are directed to extend full cooperation to the Ld. Commissioner in completion of the Local Inspection. Ld. Commissioner is also not permitted to collect any evidence under any circumstances or to act in any manner which is beyond the Writ of Commission or not within the ambit of his work.

To (**28/01/2026**) for filing receipt showing payment of commissioner's cost by the plaintiff, thereafter writ shall be issued.

Chief Judge.

J.O. Code WB 01130