

Ej. Suit No. 396 of 2022
CIS No. : WBPS01-000686-2022

Order No.- 16
04.08.2025

Today is fixed for hearing of the petition under Order 6, Rule-17 r/w Section 151 of the CPC filed by the plaintiff and hearing of the petition under Order 39, Rule-7 r/w Section 151 of the CPC.

Both sides filed their respective haziras.

A petition u/s 151 of the CPC has been filed by the defendant praying for recall of the order dated 24.04.2025.

Now, the petition under Order-6, Rule-17 r/w Section 151 of the CPC filed by the plaintiffs dated 16.04.2024 and the application Under Order-39, Rule-7 of CPC is taken up for hearing.

Heard both sides.

Perused the petition and other materials on record.

Considered.

Having heard, perused and considered the submission of the parties it is found that the plaintiff intends to incorporate in the plaint the fact of obtaining possession of more rooms being the room occupied by men of Krishna Prasad Ghosh on the first floor and another one being two rooms on the second floor which was under the occupation of the family members of Sumati Bala Aich and Brindaban Dutta.

Under Order – 6, Rule-17 of the CPC amendment to pleadings can be allowed at any stage to enable the Court to determine the real questions in controversy between the parties, but after the commencement of trial, it is permitted only in exceptional circumstances where the party could not have raised the matter earlier dispute due diligence.

It appears that the evidence of the suit has not yet commenced and the facts which the plaintiffs intend to incorporate are the subsequent events and very vital to the adjudication of the controversies between the parties regarding the reasonable requirement of the suit premises by the plaintiffs.

In view of the above, the application of the plaintiffs filed under Order-6, Rule-17 of CPC is hereby allowed on contest.

Plaintiffs to file the amended plaint.

The plaintiffs have filed the application under Order-39, Rule-7 of CPC praying for local inspection/commission at the premises no. 20, Nirmal Chandra Street, Kolkata – 700012 to ascertain the possession of the plaintiffs as well as the defendant therein.

The defendant raised objection and submitted that the petitioner has been filed with malafide intention, hence, ought to be rejected.

Generally when there is an eviction suit, the application under order 39 rule 7 of the CPC is allowed if the ground of eviction is reasonable requirement of the plaintiff of the suit premises. This is because it becomes necessary for ascertaining the availability of the suitable accommodation for just decision of the suit. I find that one of the grounds for eviction is reasonable requirements of the plaintiffs and the points mentioned in the

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schedule of the application are necessary for determination of the actual accommodation of the plaintiffs and the defendant in the suit building.

In view of the above, it is,

ORDERED,

that the petition u/o-39, rule-7 r/w section 151 of C.P.C. dated 16.04.2024 is hereby allowed on contest in respect of all the points.

Tinia Das Ld. Advocate of this Court is hereby appointed Advocate Commissioner to hold local inspection in terms of the petition.

Plaintiffs are directed to hand over Rs. 10,000/- (ten thousand) towards fees of the Ld. Advocate Commissioner and file receipt within 15 (fifteen) days from the date of this order.

Plaintiffs are directed to supply a copy of the petition u/o-39, rule-7 r/w section 151 of C.P.C. dated 16.04.2024 to the Ld. Advocate Commissioner.

Ld. Advocate Commissioner is directed to go to the locale after serving due notice upon both sides, to hold local inspection in terms of all the points and submit report with 1 (one) month from the date of issuance of writ.

Let a copy of this order be served upon the Advocate Commissioner free of cost.

Issue writ accordingly.

To **25.09.2025** for filling amended plaint by the plaintiff and Advocate Commissioner's report and for hearing of the petition dated 04.08.2025 u/s 151 of the CPC filed by the defendant.

Dictated and corrected by me:

Judge

Smt. Glady Bomjan
(J.O. Code: 01039)
Judge, 3rd Bench
Presidency Small Cause Court,
Calcutta

Today is fixed for hearing of the petition under Order-39, Rule 7 of the CPC r/w Section 151 of the CPC filed by the plaintiff dtd. 05.05.2025, written objection, if any, in the meantime.

Both filed hazira through their Ld. Advocates.

Defendant filed written objection to the plaintiff's application under Order-39, Rule-7 of CPC. Copy served.