

EJECTMENT SUIT NO. 222 OF 2018  
C. N. R. NO. WBPS01-000735-2018  
Before Smt. A. Bhattacharya, Ld. Judge, 5<sup>th</sup> Bench.

ORDER NO. 38 DATED 21.01.2025

Defendant files hazira.

Defendant also files written objection to the petition under Or.39 R.7 of C.P.C. filed by the plaintiff. Copy served. Let the same be kept with the record.

Today is fixed for hearing of the petition under Or.39 R.7 of C.P.C. dated 14.07.2023 filed by the plaintiff.

Ld. Advocates for both sides are present.

The record is taken up for hearing of the petition under Or.39 R.7 of C.P.C. dated 14.07.2023 filed by the plaintiff by which it is stated that the instant suit has been initiated against the defendant on the ground of reasonable requirement amongst other grounds. Defendant appeared by filing Vakalatnama and written statement and other applications. For proper adjudication of this suit and to avoid further complication, the suit premises be inspected by appointment of an Advocate Commissioner on the points as mentioned in the instant petition. Petitioner is ready to pay the cost of commission in the Ld. Court and as such, prays for appointment of an Advocate Commissioner.

On the other hand, by filing written objection, it is stated by the defendant that the application is totally harassing, misconceived, mala fide and not maintainable in law. The petitioner is under strict proof of the allegations made by him by production of necessary papers. The points for inspection as mentioned in the instant petition are not required for proper adjudication of the suit. If the application of the plaintiff is allowed, it will completely change the nature and character of the instant case and prayed for rejection of the instant application with exemplary cost.

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

Considering the petition, written objection and the submission of Ld. Advocates for both sides, it appears that the instant suit has been filed by the plaintiff, inter alia, on the ground of reasonable requirement and for proper and effective adjudication of the instant suit, the actual accommodation available to the parties to this suit in the suit building is required to come before this Court and for the said purpose, appointment of an Advocate Commissioner is necessary to hold local inspection and as such, there is no impediment to allow the instant petition of the plaintiff.

ORDER NO. 38 contd.

Hence, it is

**ORDERED**

that the petition under Or.39 R..7 read with Sec.151 of C.P.C. filed by the plaintiff is allowed on contest.

Let Shri **CHITTO BINOD BISWAS**, Ld. Advocate of Local Bar be appointed as an Advocate Commissioner to hold local inspection on the points mentioned hereinbelow after service of notice upon both parties to this suit and their respective ld. Advocates and to submit report thereof positively on the date fixed:-

a) to inspect the existing accommodation and mode of user available to the plaintiff in premises no.41, Radha Madhav Saha Lane, Kolkata-700007.

b) to inspect the existing accommodation and mode of user available to the plaintiff in premises no.41, Radha Madhav Saha Lane, Kolkata-700007.

c) to inspect the special feature, if any, at premises no. 41, Radha Madhav Saha Lane, Kolkata-700007.

d) to prepare a rough sketch map.

Plaintiff is directed to pay a cost of Rs.10,000/- towards provisional cost of commission within 31.01.2025 positively.

Writ of inspection will be issued after payment of cost by the plaintiff.

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

Fix 21.03.2025 for submission of Commission Report.

Dictated and corrected by me,

JUDGE

JUDGE  
[5TH BENCH]