

EJECTMENT SUIT NO. 177 OF 2007E[1207/2014]
C. N. R. NO. WBPS01-001342-2007
Before Smt. A. Bhattacharya, Ld. Judge, 5th Bench.

ORDER NO. 108 DATED 10.04.2025

Both parties file hazira.

Defendant has filed one petition under Sec.151 of C.P.C. praying for restoration and/or resumption of supply of water to the suit premises on the ground stated therein.

Today is fixed for further cross examination of P.W.1.

Ld. Advocates for both sides are present.

The record is taken up for hearing of the petition under Sec.151 of C.P.C. filed by the defendant today by which it is stated by the defendant that the defendant is a tenant in respect of a room. From the inception of the said tenancy, there was a water connection in the suit premises i.e. the tenanted portion of the defendant and there was also water connection at common bath and privy. On 25.03.2025, defendant opened the office and found that there was no water available from the tap. The staff of the defendant ruxzhd to the landlord and asked him why there was no water supply in the suit premises but the plaintiff surprisingly replied that as there is an eviction suit pending in respect of the suit premises and as such, there is no need providing any water facility to the defendant. There is no deficiency of supply of water in the suit building and the plaintiff has also made an extra tank on the roof of the building but the plaintiff has stopped and disrupted the supply of water to the suit premises quite intentionally and as such, prays for a direction upon the plaintiff for restoration and/or resumption of supply of water to the suit premises.

On the other hand, though the plaintiff has not filed any written objection but it is submitted by the ld. Advocate that the instant petition is only to drag the litigation and the defendant is getting sufficient water supply and it should be rejected in limini.

Considering the petition, materials on record and the submissions of ld. Advocates for both sides, I find that it is the allegation of the defendant that there was water connection and common bath and privy but on 25.03.2025, when he opened the office, he found that there was no water supply from the tap in the suit premises. The defendant has not specified since when the water connection has been disconnected. However, water is essential for the very living of a human being. Accordingly, the defendant is at liberty to move the Kolkata Municipal Corporation and/or appropriate forum and as such, the instant petition should be disposed of.

Today is fixed for cross examination of P.W.1. Ld. Advocate for the Defendant submits that he will cross examine the witness only after disposal of this application and that too not on this day but on the next date. This is a suit of the year 2007 and the period of 18

ORDER NO. 108 contd.

years has already been elapsed. By filing frivolous application, defendant has already caused delay and by expressing his whim, defendant further expresses his intention to only cause delay in the trial of the suit.

Accordingly, defendant is directed to pay a cost of Rs.10000/- out of which Rs.5000/- to the plaintiff and remaining Rs.5000/- to be deposited before the D.L.S.A., Kolkata on or by the date fixed positively.

Fix 13.06.2025 for filing receipt showing payment of cost of Rs.10,000/- by the defendant and further cross examination of P.W.1.

Dictated and corrected by me,

JUDGE

JUDGE
[5TH BENCH]