

**Ejectment Suit No. 287 of 2018**  
**C.N.R No. WBPS01-000933-2018**

**Order No.38**

**Dated 05.08.2025:**

Today is fixed for evidence for the defendant. Both the parties file separate attendance through their respective Ld. Advocates.

It is submitted on behalf of the plaintiffs that the defence of the defendant has been struck out under section-7(3) of the W.B.P.T Act. So the defendant is not entitled to get the chance to adduce evidence. But the date has been fixed in this record for evidence of the defendant. So he prayed for passing necessary Order.

It reveals from the record that the defence of the defendant against the delivery of possession has been struck out vide Order dated 07.09.2022. As per the proposition laid down by the Hon'ble Apex Court in **Modula India Vs. Kamakshya Singh Deo, AIR 1989 SC 162** the defendant has only the right of cross examining the plaintiff's witnesses, of pointing out to the Court the factual and legal infirmities in the plaintiff's case and of addressing arguments on the basis of evidence as adduced by the plaintiff and tested by the cross examination on behalf of the defendant. So there is no question of fixing date for the evidence of the defendant.

Accordingly the evidence for the defendant is closed.

On further perusal of the record it appears that the serial number of the Orders passed since 04.02.2019, have been wrongly written and the anomaly continued till 10.01.2023. It is a clerical error and can be rectified. So the serial numbers of the Orders since 04.02.2019 are required to be corrected.

D.A is directed to correct the serial numbers of the Order since 04.02.2019 till 10.01.2023.

At this stage the plaintiffs filed a petitioner with a prayer for withdrawal of Exhibit-10 collectively.

Heard the Ld. Advocate for the plaintiffs. Perused the case record.

Considered.

The prayer is allowed.

The plaintiffs are at liberty to withdraw the Exhibit-10 collectively by replacing the same with the certified copy.

Fix 02-09-2025 for argument.

Typed, Corrected and Printed by me.

Judge, Bench-4  
PSCC, Calcutta  
J.O Code WB01174

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