

EJECTMENT SUIT NO. 202 OF 2007 [1228/2014]
C. N. R. NO. WBPS01- 000571- 2007
Before Sri Sridhar Chandra Su, Ld. Judge, 5th Bench.

ORDER NO. 109 DATED 08.08.2022

Today is fixed for passing order.

Both parties have filed their respective haziras.

The record is taken up for passing order.

It is submitted by the ld. Advocate for the plaintiffs, by filing the instant petition under Or.26 R.9 read with Sec.151 of C.P.C., that the plaintiffs instituted the instant suit for eviction against the defendant. That this ld. Court was pleased to appoint one Shri Monojit De, as an Engineer Commissioner to hold commission in respect of the suit property as per prayer of the petition dated 15.05.2015. Accordingly, Engineer Commissioner held commission and submitted his report in Court. That the said Engineer Commissioner is an aged senior person and it is extremely difficult for him to adduce evidence before this Court for his old age and ill health and as such prayed for appointment of an Advocate Commissioner to record his evidence on commission.

Considering the submissions of ld. Advocates for both sides, the petition and the materials on record, it appears that the instant suit has been filed, inter alia, on the ground of reasonable requirement and other grounds. Plaintiff filed one petition on 15.05.2015 for appointment of an Engineer Commissioner to hold commission in respect of the suit property and the said petition was allowed vide order dated 22.06.2015. Accordingly, Shri Monojit De held commission in presence of both parties and their respective Ld. Advocates. That the said Engineer Commissioner submitted interim report on 22.06.2016 and final report on 07.09.2016. Due to his illness, Engineer Commissioner is not in a position to come to Court to prove his report. So, I find no impediment to allow the instant petition filed by the plaintiffs.

Hence, it is ORDERED that the petition under Or.26 R.9 read with Sec.151 of C.P.C. filed by the plaintiffs is allowed on contest.

Let Shri SANDIP CHATTERJEE be appointed as an Advocate Commissioner to hold local inspection to record evidence of the Ld. Engineer Commissioner after service of notice upon both parties and their respective ld. Advocates and to submit a report thereof positively on the date fixed.

Plaintiffs are directed to pay/deposit a sum of Rs.10,000/- [Rupees Ten Thousand] only towards cost of commission positively by the date fixed.

Fix 31.08.2022 for deposit of commission cost of Rs.10,000/- by the plaintiff and further order.

Dictated and corrected by me,

JUDGE

JUDGE
[5TH BENCH]
J.O. Code No. WB-00-620.