

Ejectment Suit No. - 456 of 2017
CNR No. WBPS01-001157-2017

Order No.- 27
20.06.2022

Today is fixed for further hearing of the petition u/s 7(2) of WBPT Act and passing order and hearing of the petition u/o-39, rule-7 r/w section 151 of CPC filed by the plaintiff this day, written objection if any, in the meantime.

Both sides files hazira through their Ld. Advocates.

Defendant files written objection against the petition U/o-39, rule-7 read with Section 151 of CPC filed by the plaintiff and it be kept with the record for the part and parcel of the record.

Now the record is taken up for hearing of petition u/o-39, rule-7 dated 25.03.2022 filed by the plaintiff.

Heard both sides.

Perused petition, written objection and other materials on record.

Heard. Perused.

Considering the fact that the Commission as sought for by the plaintiff is formal in nature and is required for the purpose of this suit. Hence, the prayer of the plaintiff is hereby considered and allowed.

The plaintiff has filed the present petition for local inspection/commission on the points:-

(1) To note the accommodation available to the plaintiff at the suit building at Premises No. 3, Surya Sen Street, P.S. - Muchipara, Kolkata – 700012 along with the mode of user and measurements thereof?

(2) To note the accommodation available to the defendant at the suit building on the second floor at Premises No. 3, Surya Sen Street, P.S. - Muchipara, Kolkata –700012 along with the mode of user and measurement thereof?

(3) To draw a rough sketch map of the accommodation available to the defendant on the second floor at the suit building Premises No. 3, Surya Sen Street, P.S. - Muchipara, Kolkata – 700012.

(4) To note the condition of the floors and wall of the suit premises under the occupation of the defendant. To note whether there are potted plants on second floor small terrace within the occupation of the defendant? To note the condition of the ceiling of the office room and adjoining toilet under occupation of the plaintiff at Premises No. 3, Surya Sen Street, P.S. - Muchipara, Kolkata – 700012.

(5) Such other local feature or features as will be brought to the notice of the Advocate Commissioner by the parties and/or their Ld. Advocates at the time of holding local inspection.

Ld. Advocate on behalf of the defendant objection against the petition by written objection.

This Court find that all the points mentioned in the schedule of the application are necessary for determination of the actual condition and accommodation of the plaintiff and the defendant in the suit building.

This Court consider that the instant petition need be allowed in respect of all the points mentioned therein.

Hence, it is,

ORDERED,

that the petition petition u/o-39, rule-7 r/w section 151 of C.P.C. dated 25.03.2022 is hereby allowed on contest in respect of all the points.

Smt. Tapasi Chatterjee Ld. Advocate of this Court is hereby appointed Advocate Commissioner to hold local inspection in terms of the petition.

Plaintiff is directed to hand over Rs. 15,000/- (fifteen thousand) towards fees of the Ld. Advocate Commissioner and file receipt.

Plaintiff is directed to supply a copy of the plaint, petition u/o-39, rule-7 r/w section 151 of C.P.C. dated 25.03.2022 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 within **45 (forty-five)** days from the received of this order.

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

Issue writ accordingly.

To **17.08.2022** for filling Advocate Commissioner's report and hearing of the petition u/s 7(2) of WBPT Act, 1997.

Dictated and corrected by me:
Sd/- Sri Sangram Saha
Judge

Sd/- Sri Sangram Saha
Judge, 3rd Bench
(J.O. Code: WB1037)
Presidency Small Cause Court, Calcutta