

EJECTMENT SUIT NO. 118 OF 2005  
C. N. R. NO. WBPS01-001876- 2005  
Before Sri B. Mangrati, Ld. Judge, 5<sup>th</sup> Bench.

ORDER NO. 130 DATED 10.08.2023

Today has been fixed for evidence of the defendant as special last chance.

Plaintiffs are represented through their ld. Lawyer.

A petition along with copy of cause list is filed on behalf of the defendant wherein the defendant has prayed for an adjournment and for bringing necessary order from the Hon'ble Court in connection with C.O. No.2505/2022.

Plaintiff raised strong objection stating that the defendant has already availed ample opportunities for adducing evidence from their side.

Record transpires that in terms of order no.89 dated 02.05.2018, this Court framed two preliminary issues in compliance with the direction of the Hon'ble Court in C.O. No.253/2017. The suit is proceeding to collect evidence touching those preliminary issues. Evidence from the side of the plaintiff was concluded long back on 01.04.2022 itself. Thereafter, dates are running in this Court's cause list for D.Ws. On 07.05.2022, defendant had sought for an order under Or.26 R.1 read with Sec.151 of C.P.C. seeking appointment of an Advocate Commissioner for examination of the defendant in the suit. Same was rejected by this Court on contested hearing vide order no.120 dated 28.06.2022. It is the contention of the defendant that against this very order, they have preferred Revision vide C.O. No.2505/2022 which is still pending.

Invariably, as of this day, there has been no order of stay passed by the Hon'ble Court in this record. But the application challenged therein having direct bearing with the stage of this suit, it is viewed that one more opportunity may be accorded to the defendant for bringing stay order, if any, from the superior forum.

In such view of the matter, the petition this day stands allowed with abundant caution to the defendant that similar application without accompanied by any specific order of stay shall entail an order of rejection without any further consideration.

Fix 08.09.2023 for evidence of the defendant i.d. closure of D.W. without any further consideration.

Dictated and corrected by me,

JUDGE

JUDGE  
[5TH BENCH]  
J.O. Code No. WB00928.