

CO 3779 of 2024

Smt. Gouri Burman & Ors.
Vs.
Sri Chandidas Dutta & Anr.

Mr. Partha Pratim Roy
... for the petitioners

Assailing the order dated 10th May, 2024, petitioners have preferred this application contending that the plaintiff in a suit for eviction of premises tenants filed one application for local Inspection Commission and learned Commissioner after Inspection Commission submitted her report. The said learned Commissioner faced the dock and in her cross-examination she admitted that she has not inspected the room which was locked by collapsible gate on the ground floor of the said building.

Accordingly, petitioners herein made an application under Order 39 Rule 7 of the Code of Civil Procedure for making local inspection of the rooms which were under the lock and key at the relevant time of commission work, as according to the petitioner, there are four mezzanine floor rooms in the ground floor stairs of the premises no. 5, Sitaram Ghosh Street, Kolkata - 700 009.

However, learned Court below by the order impugned was pleased to reject the petitioners prayer for further local inspection commission on the ground that the defendant/petitioner did not mention about the area where the alleged rooms under lock and key situates over the suit building and according to the Court below since said rooms are not identifiable, which according to the petitioner is not sustainable in the eye of law.

Petitioners are directed to serve a copy of the application upon the opposite parties intimating next date of hearing and to file affidavit of service on the returnable date.

Let the matter be listed under the heading 'Contested Application' in the Monthly List of March, 2025.

Having heard the learned counsel appearing on behalf of the petitioners that the petitioners had made out an arguable case which needs adjudication on merits, let all further proceedings of Ejectment Suit No. 22 of 2019 pending before the learned Judge 2nd Bench of the Small Causes Court at Kolkata is stayed for a period of eight weeks or until further order, whichever is earlier.

(Ajoy Kumar Mukherjee, J.)

