

10.09.2021
Item No.4
Ct. No.7
CHC

C.O.944 of 2021

Varsha Agarwal
Vs.
M/s. Pragati Pratisthan Private Limited

Mr. Saptanshu Basu, Sr. Advocate
Mr. Ram Anand Agarwal,
Ms. Nibedita Pal,
Mr. Ananda Gopal Mukherjee
...for the petitioner

Mr. Krishna D. Poddar
...for the opposite party/plaintiff

Affidavit-of-service filed by the learned advocate for the petitioner be taken on record.

The parties are represented by their learned advocates, names of whom are shown at the top of this ordersheet.

The subject-matter of challenge is the local inspection Commission allowed for the second time by order dated 2nd March, 2021, of learned Judge, 4th Court, Presidency Small Causes Court, Calcutta, in Ejectment Suit No.303 of 2017.

Mr. Basu, learned Senior Advocate representing the petitioner/defendant submits that previously on the prayer of opposite party/plaintiff, a prayer for local inspection was held and report was submitted.

According to Mr. Basu, he has no objection to the acceptance of the previous inspection Commission's report, and he has nothing to cross-examine, as regards as the Learned Commissioner, who held local inspection previously.

Mr. Poddar, learned advocate representing the opposite party/plaintiff submits that true it is that previously local inspection was held in respect of the suit premises and report was submitted, but the same could not be marked exhibit on the ground that learned advocate, who held local inspection commission suddenly left the world, and thereby creating necessity for filing a second application praying for local inspection for second time simply to remove the doubt, if there be any, and also to dispel the controversy connected therewith permanently, even during the subsequent movement of the suit before any superior court.

From the order impugned, it appears that admittedly, the suit premises was inspected previously by the learned Inspection Commissioner, and as regards the present occupation of the plaintiff and defendant, nothing has been changed and no allegation in any manner was there that any of the parties to the suit changed their occupied area or otherwise.

In view of such specific observation of the learned court below, and when Mr. Basu representing the defendant assures this Court that he has no objection to accept the previous local inspection Commission's report, and further he has nothing to make any cross-examination in respect of the local inspection Commissioner's report, and he further undertakes to submit a petition stating his express consent for the purpose so that the Inspection Commissioner's report may be marked exhibit together with a revelation that he had nothing to cross-examine with respect of such local inspection Commission's report, the Court is of the view that in such context, local inspection Commission for the second time would be an unnecessary exercise. The impugned order is, thus, set aside.

Petitioner is directed to file an application in terms of the disclosure made by the learned Senior Advocate, Mr. Basu, as has already referred hereinabove, before learned court below on the next date fixed, and if any such application is filed, that will be duly addressed to by the learned court below in accordance with the provisions of the law, and also in the light of the observation made in the body of this order.

Since, this is a suit of 2017, which is basically for the reasonable requirement, default and also for subletting, the learned court below must try to ensure

expeditious disposal of the pending suit providing sufficient opportunity of hearing to either of the parties to this case after disposing of interlocutory application.

With this observations/directions, the revisional application stands disposed of.

All parties shall act in terms of copy of this order downloaded from the official website of this Court.

Urgent certified photostat copy of this order, if applied for, be given to the parties as expeditiously as possible on compliance of all necessary formalities.

(Subhasis Dasgupta, J.)