

Sl. No. 3
22.12.2021
Court No. 21
sourav

CO 2236 of 2021
(Via Video Conference)

Minati Sarkar & Ors.
Vs.
Sibatosh Chakraborty

Mr. B. N. Ray
Ms. Shetparna Ray

...For the Petitioners.

Mr. Sanjay Mukherjee

...For the Respondent.

Being aggrieved by the order of appointment of an advocate commissioner to hold local inspection of the tenanted suit property passed by the learned Civil Judge (Senior Division) 5th Court, Alipore in Ejectment Suit No. 24 of 2021 on 30.11.2021, the defendants have preferred this revisional application under Article 227 of the Constitution of India.

It is seen that the opposite party has filed ejection suit against the defendants/petitioners on the ground of reasonable requirement, default, for causing addition and alteration and for causing damage by keeping the house under lock and key.

In order to ascertain the rooms under the occupation of the plaintiff and as well under the occupation of defendants and to find out the extent of damage caused by keeping the tenanted premises

under lock and key, the plaintiff has prayed for local inspection.

After hearing the both sides, the learned court below has been pleased to pass the impugned order.

It has been submitted by the learned lawyer for the petitioners that the advocate commissioner cannot cause the inspection with regard to the material deterioration of the tenanted premises as the advocate commissioner is not an expert. The plaintiff wants to fish out evidence by holding the local inspection. He further submits that without scientific investigation no material deterioration of the suit premises can be assessed.

On the other hand, the leaned lawyer for the opposite party submits that the defendants/petitioners are not residing in the disputed tenanted premises. They are residing at their own property situated at Purba Diganta, Jadavpur keeping the tenanted premises under lock and key and due to continuous closer of the flat, the property has been damaged for want of free flow of air and light. In order to ascertain such damage inspection is required.

The learned advocate for the petitioners also filed undelivered registered envelopes addressed to the defendants in their tenanted premises. On perusal of the same it is seen the same could not be delivered as addresses had already left the address. From such

undelivered envelop and endorsements thereon it can be safely presumed the defendants do not reside in the disputed premises and has left the premises under lock and key.

Therefore, in order to ascertain the extent of damage, if any, caused due to long closure of the tenanted premises a local inspection by an Advocate Commissioner is sufficient. It does not require any scientific expert to find out apparent damage and deterioration of the disputed tenancy caused by long closure. And also to ascertain the number of rooms under the occupation of the plaintiff as well as that under the defendants.

Therefore, the order impugned does not suffer from any illegality or material irregularity.

Further, this Court is of view in order to adjudicate the dispute between the parties effectively local inspection of the suit premises is necessary.

Under such circumstances, the revisional application is dismissed.

Accordingly C.O. 2236 of 2021 is dismissed.

Connected application, if any, stands disposed of.

Interim order, if any, stands discharged.

There will be no order as to costs.

All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

Urgent Photostat certified copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Kesang Doma Bhutia, J.)