

22.11.2022
Item No.1
Ct. No.7
CHC
(disposed of)

C.O.936 of 2022

**M/s. The Relief, a Medical Diagnostic Centre
represented by its partner Dr. Prabir Kumar Pal
Vs.
Smt. Seema Bhowmick & ors.**

Mr. Kaustav Banerjee
...for the petitioner

Mr. Biswarup Biswas,
Mrs. Atreyee De (Ganguly)
...for the opposite parties

Subject-matter of challenge in this revisional application is against rejection of a prayer for local inspection under Order 39 Rule 7 C.P.C., in Ejectment Suit No.9 of 2014, now pending before the learned Civil Judge (Junior Division), Additional Court, Sealdah, South 24 Parganas.

Mr. Banerjee, learned advocate appearing for the petitioner while assailing the impugned order submits that admittedly there has been local inspection held twice in respect of the suit property, from which the petitioner has been sought to be evicted, as well as to ascertain the extent of requirement of plaintiffs/opposite parties, if there be any, in a suit for eviction based on reasonable requirement.

It is contended further by the petitioner that during the pendency of litigation, the opposite parties

have obtained vacant khas possession of two rooms, which the opposite parties upon demolishing the internal wall have converted the same into one room. By reason of such amalgamation of two rooms into one, the extent of requirement consequent upon present available accommodation in the plaintiffs suit for eviction, based on reasonable requirement may not be there, and that is the reason behind inviting local inspection for the third time, Mr. Banerjee argues.

Per contra, Mr. Biswarup Biswas, learned advocate appearing for the opposite parties disputing with the submission of the petitioner replies that original suit for eviction was instituted in the year 2011, and there has been local inspection twice held in respect of the subject property, as well as to reveal and controvert the extent of available accommodation, held by the opposite parties/plaintiffs.

The exercise undertaken by the petitioner, according to the opposite parties, is nothing but to cause delay to the disposal of the suit.

Having considered the submission of both sides, it appears that local inspection has been invited for a change in the extent of accommodation available at the moment by the opposite parties by reason of handing over of vacant khas possession of two rooms, which is alleged to have been subsequently converted into one room upon demolishing the internal wall.

The eviction suit based on reasonable requirement in the given circumstances of the case may not be allowed to be proceeded in an endless manner holding local inspection one after another ground. It is for the opposite parties/plaintiffs to establish the ground of reasonable requirement in context with the pleadings already submitted. There cannot be any controversy by either of the parties to the case on the point that the witness examined by the plaintiffs during trial will be subjected to cross-examination, and the point, raised by the petitioner, may be objectively testified during cross-examination.

However, when it is the case of petitioner/defendant that there has been a gross change in the extent of available residential accommodation, which is available at the moment for the opposite parties/plaintiffs, the local inspection on the points, sought to be held, though strongly denied by opposite parties, if allowed, subject to payment of cost of Rs.25,000/- (Rupees Twenty Five Thousand only), to be deposited by the petitioner within seven (07) days from the date of communication of this order to opposite parties, that will subserve the purpose of justice.

Subject to the deposition of such cost, the court below is permitted to appoint local inspection Commissioner within three (03) days from the

deposition of the cost with a further direction requiring petitioner to deposit cost of local inspection which would be decided by the court below as would deem fit and proper in accordance with law.

The report of such commission may be submitted within seven (07) days thereafter.

The report of the Commission may be accepted in accordance with law.

The logical conclusion of the suit may be reached after undertaking the trial before the end of June, 2023, without granting any unnecessary adjournment, unless it is extremely unavoidable.

With this observation/direction, the revisional application stands disposed of.

Parties are directed to make communication of this order to the court below.

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.)