

03.02.2022
Ct. No.21

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AKG

C.O. 2081 of 2021

Sri Jayanta Sinha
-Versus-
Smt. Rama Bhattacharya.

(Through Video Conference)

Mr. Sharanya Chatterjee,

...for the Petitioner

The plaintiff/petitioner being aggrieved by the order of granting local inspection in respect of water connection and water supply facility in the disputed tenancy by the learned Civil Judge (Senior Division), 9th Court at Alipore in Title Suit No. 36 of 2019 on 19.03.2021 has preferred this revisional Application under Article 227 of the Constitution of India.

It has come on record that plaintiff/petitioner being the landlord/owner has filed the above mentioned Title Suit for eviction of the tenant. It has been contended by learned lawyer for the opposite party the landlord/owner by fixing stop cock in the water line of the tenant has stopped free flow of water from the reservoir in the disputed tenancy and thereby deprived the tenant a widow an essential service.

It has been contended by learned lawyer for opposite party in order to bring such fact the opposite party has prayed for local inspection.

On the other hand it has been contended by the learned advocate for the petitioner that opposite party in the name of local inspection in respect of water connection and water supply in the disputed tenancy, wanted to get the inspection of the entire building and wanted to fish out evidence. Advocate Commissioner is not an expert in plumbing matter and cannot hold the inspection. Therefore, he urged to set aside order impugned.

Perused the application under Order 39 Rule 7 of Civil Procedure Code and the nature of local inspection prayed therein, I find that the defendant/tenant by praying for local inspection just want to ascertain the water supply condition in the disputed tenanted premises and the manner of supply of water in her tenancy and to find out whether there is any stopcock being fixed on her water pipe line and not an inspection of entire building as contended by learned advocate for the petitioner or to fish out the evidence. It is settled law a landlord cannot deny and deprive a tenant water supply in the tenanted premises which is considered to be an essential service.

Therefore, this court is view the local inspection as sought for is necessary to ascertain whether the defendant tenancy is deprived of essential service by the land lord or not.

It is true that an advocate cannot be presumed to be an expert in plumbing matter and about the water line connection. Advocate Commissioner who has already been appointed to hold local inspection by the learned court below is further directed to get inspection done with the help of a plumber. I do not find any merit in the present revisional application and hence it is rejected.

Accordingly C.O. 2081 of 2021 is dismissed.

Interim order, if any, stands discharged.

There will be no order as to costs.

In view of the order made above Affidavits are not invited. Allegations made shall be deemed to be denied.

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

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

(Kesang Doma Bhutia, J.)