

15.11.2022
Item No.28
Ct. No.7
CHC
(disposed of)

C.O.3087 of 2022

**Smt. Bula Bose & anr.
Vs.
Sri Gobinda Chandra Rudra**

Mr. Saptarshi Kumar Kundu
...for the petitioners

Mr. Prasanta Kumar Banerjee,
Ms. Indrani Nandi,
Mr. S. S. Banerjee
...for the opposite party

Rejection of a prayer for local investigation in a suit for eviction of a tenant is under challenge in this case.

Mr. Kundu, learned advocate appearing for the petitioners/tenants/defendants drawing attention of the schedule of plaint, wherefrom tenants have been sought to be evicted, submits that description of the schedule of the suit premises is vague one, and for the vagueness of the schedule, the decree, if any, granted after full trial, may not be executed.

Mr. Prasanta Kumar Banerjee, learned advocate appearing for the opposite party/plaintiff/landlord replies that such prayer for local investigation has been made at a stage, when the suit is matured one, and further, the local inspection is not at all required for proving the grounds available under Section 6 of the Premises Tenancy Act.

It is thus contended by the opposite party that the entire exercise behind filing of this application under Order 26 Rule 9 C.P.C. is to cause delay to the disposal of the suit.

Having considered the submission of both sides, it appears that suit has already been set for peremptory hearing.

It is basically a suit for eviction. Description of the suit property should be mentioned with all certainty leaving behind no vagueness. For the vagueness of the schedule, if there be any, the profit, if there be any, may be in favour of the petitioners/tenants seeking local investigation in the instant case.

For the reasons mentioned hereinabove, investigation of the suit property in aid of Order 26 Rule 9 C.P.C. is not at all required. The impugned order passed in Title Suit No. 91 of 2019 by learned Civil Judge, (Junior Division), 1st Court, Ranaghat as such, does not call for any interference.

However, petitioners are given liberty to undertake appropriate cross-examination in accordance with law in support of his defence pertaining to the vagueness of schedule, as set up already in written statement.

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

Both the 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.)