

20.09.2023  
Item No.ADSL 1  
RP  
Ct. No.7

**CO 2995 of 2023**

**Mr. Hamed Hossin  
Vs.  
Sri Deb Narayan Panday**

Mr. Rahul Karmakar  
Mr. Sounak Mukherjee  
... for Petitioner

Mr. Vinay Kumar Purohit  
... for Opposite Party

1. The learned advocate for the defendant/petitioner mentioned this matter at the first sitting of the Court citing grave urgency. In view thereof, this matter was directed to appear in the supplementary list at 2 P.M.
2. The order no.28 dated August 2, 2023 passed by the learned Judge, 2<sup>nd</sup> Bench, Small Causes Court at Calcutta Ejectment Suit No.106 of 2020 is under challenge at the instance of the defendant.
3. Mr. Karmakar, learned advocate appearing for the petitioner submits that he was not aware that a caveat has been lodged in this matter. However, immediately after such fact came to his notice, he has served the copy of the revisional application upon the learned advocate representing the caveator. The caveator is represented by his learned advocate at the time of hearing.

4. The petitioner has challenged the order no.28 dated August 2, 2023 whereby the defendant's prayer for local inspection under Order 39 Rule 7 of the Code of Civil Procedure, 1908 in a suit for eviction, inter alia, on the ground of reasonable requirement has been rejected.
5. Mr. Karmakar, learned advocate appearing for the petitioner, by drawing the attention of the Court to the averments made in the plaint, submits that the plaintiff has admitted in the plaint existence of four properties, one of which is the suit property. It is not in dispute that the local inspection in respect of two properties, namely, premises no.24, Ripon Lane, Kolkata-700016 under Police Station-Park Street which is the suit premises and premises no.26B, Muzaffar Ahmed Street, Kolkata-700016 under Police station-Park Street have already been held. It is the contention of Mr. Karmakar that only a portion of premises no.26B, Mujaffar Ahmed Street has only been inspected. The grievance of the petitioner is that the premises at Garia as well as premises at 13, Ram Shankar Roy Lane, Kolkata-700014 under Police Station-Taltala has not been inspected and it is the duty of the plaintiff/landlord in order to succeed in the suit for eviction on the ground of reasonable requirement to plead and prove that he is not in

occupation of alternative, reasonable and suitable accommodation elsewhere.

6. Learned advocate representing the plaintiff/caveator submits that the learned trial Judge after considering the prayer for local inspection have rejected the same by assigning cogent reasons. Therefore, such order should not be interfered with by this Court while exercising jurisdiction under Article 227 of the Constitution of India.
7. It appears from the averments made in the plaint that premises at Garia is a self acquired property of the second son of the plaintiff. It is not the case of the defendant/petitioner that the plaintiff is the owner of the property at Garia. In view thereof, this Court is of the considered view that the learned trial Judge was justified in rejecting the prayer for local inspection in respect of the premises situated in Garia. Insofar as the premises at 13, Ram Shankar Roy Lane under Police Station-Taltala is concerned, the plaintiff has specifically stated that such property is fully occupied by tenants. The defendant in the written statement has not made any averment regarding the extent of accommodation available to the plaintiff at the premises at Ram Shankar Roy Lane. This Court is, therefore, of the considered view that

the learned trial Judge was perfectly justified in rejecting the prayer for local inspection in respect of the premises no.13, Ram Shankar Roy Lane under Police Station-Taltala. Insofar as the argument of Mr. Karmakar that premises no.26B, Mujaffar Ahmed Street was partly inspected, this Court finds that the learned trial Judge after going through the inspection report have arrived at a factual finding that the entire premises no.26B, Mujaffar Ahmed Street was inspected. The learned trial Judge further noticed that the defendant at the time of cross-examination of the learned Advocate Commissioner did not put any suggestion that the said premises was only partly inspected.

8. In view thereof, this Court does not find any reason to interfere that the order impugned passed by the learned trial Judge.
9. Since the instant suit is for eviction, inter alia, is on the ground of reasonable requirement, the learned trial Judge is requested to dispose of the suit as expeditiously as possible.
10. In the light of the aforesaid observations, CO 2995 of 2023 is dismissed.

**(HIRANMAY BHATTACHARYYA, J.)**

