

13.02.2023
Item No.10
Ct. No.7
CHC
(disposed of)

C.O. 3740 of 2022
Subhajit Dutta Roy & anr.
....
Vs.
Jugal Kishore Gupta & ors.

Mr. Riju Ghosh,
Mr. Aranyak Saha,
Mr. Sumitava Chakraborty
...for the petitioners
Mr. Tarak Nath Halder
...for the opposite parties

Affidavit-of-service furnished by the petitioners be taken on record.

While assailing the impugned order dated 3rd August, 2022, passed in Title Suit No.152 of 2020 of learned Civil Judge (Junior Division), 2nd Court, Sealdah, South 24 Parganas, allowing repairing work in part is under challenge in this case.

Mr. Ghosh, learned advocate appearing for the petitioner, submits that though the partial repairing work to the extent of water connection in respect of the demised portion of the petitioners, has been allowed, but the significant part relatable to extreme worn-out condition of the ceiling of the demised portion, could not be considered by the court below, what is in need of immediate repairing.

Mr. Ghosh tries to impress upon the Court foccusing the need of urgent repairing of the ceiling of

the demised portion of the petitioners, upon producing some photographs. But there is no local inspection report available at the moment to reveal to the extent of need of urgent repairing.

Per contra, Mr. Halder, learned advocate appearing for the opposite parties submits that there is no need of urgent repairing of the ceiling, and the court below has considered the entire aspects, while granting part repairing.

Mr. Halder further submits that under the garb of proposed repairing, there has been damage caused earlier, while installing AC in the demised portion of the petitioners.

It is thus incidentally submitted by Mr. Halder that the prayer for proposed repairing has been couched in such a way that there will be complete renovation work undertaken, bringing a change in the existing nature of the demised portion of the petitioners, which is not at all permissible.

Having considered the submission of both sides, it appears that prayer for proposed repairing of the ceiling, and its immediate need of repairing could not be objectively established, upon producing a report of the learned Inspection Commissioner, without which the urgency of immediate repairing cannot be easily ascertained. The petitioners have already been

favoured with order permitting to undertake partial repairing work with regard to the water connection in the demised portion of the petitioners.

As per submission disclosed by the petitioners, that the partial repairing work has not yet been undertaken, that being the position, the revisional application stands disposed of upon setting aside the impugned order, giving liberty to the petitioners to file an application for local inspection disclosing the points needing inspection, supplying a copy well in advance to the opposite parties, within three weeks from the date of communication of this order, and if any such application is filed proposing local inspection, that shall be decided in accordance with law, providing sufficient opportunity of hearing to either of the parties to this case.

The prayer for proposed repairing may be decided afresh in context with the learned Inspection Commissioner's report to be submitted, and the logical conclusion of the proposed prayer for repairing may be decided within two months from the date of communication of this order to the court below.

In the meantime, the prayer for local inspection followed by collection of the learned Inspection Commissioner's report be concluded with utmost expedition.

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.)