

S/L 30
12.3.2024
Court No.19
SD

CO 232 of 2024

Sri Ram Dayal Shaw
Vs.
Sri Indrajit Paul

Mr. Shaswat Nayak
Mr. Amit Muhuri

...for the Petitioner.

Ms. Madhumita Patra
Mr. P. Das

...for the Opposite Party.

The order dated December 12, 2023 passed by the learned Civil Judge (Junior Division), 1st Court, Alipore in Ejectment Suit No.24 of 2015 does not call for any interference.

The defendant filed an application under Order 39 Rule 7 of the Code of Civil Procedure for local inspection, inter alia, on the following points:-

- a) To take note whether there is any electric pole tied with top of the electric pole fixed with wire and iron clump upto the road in front of the suit property, if there take measurement from the electric pole, tied wire to the front main entrance of the suit property.*
- b) To take note the width of the Garfa Main Road in front of the suit property.*
- c) Any other local feature/features which may be pointed out by the learned Advocates for the parties at the time of commission work.*

Learned court rejected the said application on the grounds that factum of existence of a pole in front of the tenanted portion has already been brought on record. In the cross-examination the plaintiff has accepted the existence of

such pole. The local inspection was held on other points and report has already been filed. The defendant can always take advantage of such evidence as per the learned court's version.

I do not find any reason to interfere with the order impugned.

The court had reserved the issue raised by the defendant, by holding that the evidence recorded the existence of the pole. In the written statement, the defendant has stated that the access road to the shop room was very narrow and congested and no vehicle could pass through such passage.

The parties are at liberty to agitate all relevant facts at the trial.

With these observations, CO 232 of 2024 is disposed of.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Shampa Sarkar, J.)