

Item No.24
13.03.2024
Court. No. 19
GB

C.O. 478 of 2024

Smt. Paramita Sadhukhan Dutta & Anr.
Vs.
Shrimati Juie Pramanik

Mr. Debasish Roy,
Mr. P. Das

...for the Petitioners.

Mr. Asis Bhattacharyya,
Ms. Kumari Nilam Shaw,
Mr. B. Mitra,
Mr. Sukhen Bar

...for the Opposite Party.

1. The revisional application is directed against an order dated January 15, 2024, passed by the learned Civil Judge (Junior Division), Additional Court at Sealdah, District-24 Parganas (South) in Title Suit No.87 of 2023.
2. By the order impugned, the learned court allowed an application under Order 39 Rule 7 of the Code of Civil Procedure for appointment of an advocate commissioner to hold local inspection of the suit property.
3. Mr. Roy, learned advocate for the petitioners submits that the local inspection was only for fishing out evidence. The scope of inspection was beyond the suit property. A vague allegation that the suit property was in a deplorable condition and required repair, could not be a ground for appointment of an advocate commissioner.
4. Mr. Bhattacharyya, learned advocate appearing on behalf of the opposite party submits that the suit property is in a dilapidated condition and such local inspection is necessary in aid of the prayer for repair of the premises

which is now being occupied by the plaintiff/opposite party.

5. This is a suit for declaration of tenancy and permanent injunction. The plaintiff who claims to be a tenant, prayed for local inspection of the suit property along with some other features.
6. According to the plaintiff, the suit property was in a dilapidated condition and required urgent repair. In order to ascertain the extent of repair, a local inspection was necessary.
7. In my view, the prayer for local inspection of the portion being enjoyed by the plaintiff to ascertain whether the property requires repair or not, is justifiable. However, going through the points for local inspection, I find that certain issues have been raised which are beyond the scope of the suit and beyond the area occupied by the plaintiff.
8. Under such circumstances, the order impugned is modified to the extent that the advocate commissioner shall only inspect the property occupied by the plaintiff on the following point and file a report:-
 - (a) Whether the property occupied by the plaintiff is in a habitable condition or not. If yes, what are the minimum repairs required to be made, so that the said property can be used comfortably.
9. No other point is required to be decided in the said inspection. The report shall be filed accordingly, on the basis of such points. Parties will be allowed to be present

during such inspection. Such report shall be filed on the returnable date as already fixed by the learned court. The suit shall continue. The parties will approach the learned court with a server copy of this order so that the writ can be issued on the basis of this order itself. Cost will be borne by the opposite party.

10. Accordingly, the revisional application is disposed of.
11. However, there will be no order as to costs.
12. All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)