

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE

CO 981 of 2022

Smt. Lalita Agarwal & Ors.
Vs.
Smt. Radha Basak

Mr. Anuj Singh
Mr. Sourajit Dasgupta
... For the petitioners

Mr. Tarak Nath Halder
... For the opposite party

1. This revisional application has been filed assailing the order dated 17th March, 2022 passed in connection with Title Suit No.364 of 1998 by the learned Civil Judge (Junior Division), 2nd Court, Sealdah, wherein the learned Judge refused the prayer for holding commission under Order XXXIX Rule 7 read with Section 151 of the Code of Civil Procedure (in short, CPC), subject to payment of cost of Rs.1,000/-.

2. In disposing the application under Order XXXIX Rule 7 of the CPC filed by the defendants/petitioners herein, the learned Judge observed that previously one commission was held under Order XXXIX Rule 7 of the CPC at the instance of the plaintiff/opposite party herein and report was filed on 20th August, 2009 and the suit was almost ready for argument. But, at that stage, one application under Order XXXIX Rule 7 of the CPC was filed

at the instance of the defendants/petitioners herein with a view to ascertain the habitable condition of room nos.4, 5, 6 along with washroom which were under construction as per report of the Commissioner filed on 20th August, 2009.

3. Learned counsel appearing on behalf of the petitioners submits that at the time of commission work, it appears from the Commissioner's report that room nos.4, 5, 6 along with washroom were under construction having no electric wiring.

4. At this stage, learned counsel appearing on behalf of the opposite party admitted that the construction/repair work of room nos.4, 5, 6 along with the washroom have already been completed and all those rooms are now habitable.

5. In the aforesaid view of the matter, I am of the humble opinion that further commission to ascertain the habitable condition of the room nos.4, 5, 6 along with the washroom is not at all required.

6. From that point of view, I cannot interfere with the order passed by the learned Trial Judge on 17th March, 2022.

7. Therefore, dispute regarding habitable condition of the room nos.4, 5, 6 along with the washroom is now admitted fact of the suit.

8. With the aforesaid observation, the revisional application, being CO 981 of 2022, stands disposed of.

9. The learned Trial Judge is requested to dispose of the suit, which is pending since 1998, within three months from the date of communication of this order.

10. Parties to this revisional application are directed to participate in the proceedings so that the order of this Court is complied with.

11. Learned counsel appearing on behalf of the parties are at liberty to bring this order to the notice of the learned Trial Court forthwith.

12. All parties shall act on the basis of a server copy of this order duly downloaded from the official website of this Court.

13. Urgent photostat certified copy of this order, if applied for, be given to the parties, upon compliance of necessary formalities.

(Bibhas Ranjan De, J.)