

ML24
August 2024
sandip
Ct. 19
05.08.2024

*In The High Court At Calcutta
Civil Revisional Jurisdiction
(Appellate Side)*

**C.O. No. 1546 of 2024
Ram Naresh Kumar
Vs.
Sri Kanhailal Shaw & Anr.**

Mr. Mahendra Prasad Gupta,
Mr. Shankha Maiti,
Mr. Ayan Mitra,
Mr. Sartak Singh,
Mr. Aditya Sinha ... For the petitioner.

The defendant in a suit for eviction is the petitioner in the instant application under Article 227 of the Constitution of India, which is directed against the order dated March 04, 2024 passed by the 3rd Court of learned Civil Judge (Junior Division) at Howrah, in the said suit being Title Suit No. 118 of 2012.

The learned Trial Judge by the order impugned has dismissed an application under Order XXXIX Rule 7 of the Code of Civil Procedure filed by the petitioner for holding local inspection of the suit property to ascertain the existing available accommodation of the plaintiffs there.

The failure of the plaintiffs to bring such accommodation, if available, on record, is fatal. However, mere allegation of the defendant regarding existence of such accommodation is not sufficient to direct inspection as prayed for, particularly when, the suit is at the argument stage.

The order impugned, therefore does not call for any interference, C.O. 1546 of 2024 is thus dismissed without any order as to costs.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)

