

23.09.2024
(D/L-22)
Ct.-19
(Susanta)

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION

C.O. 3372 of 2024

Subhas Chandra Seth alias
Subhash Chandra Seth
-Vs-
Amit Shankar Sanyal

Mr. Debabrata Sen,
Mr. Ayan Kumar Das,
... For the Petitioner.
Mr. Rahul Karmakar,
.... For the Opposite party.

The defendant in a suit for eviction is the petitioner of the instant application under Article 227 of the Constitution of India which is directed against order No. 22 dated August 12, 2024 passed by the learned Judge, 3rd Bench, Presidency Small Causes Court, Calcutta, in the said suit being *Ejectment Suit no. 202 of 2022*.

The learned Trial Judge by the order impugned has refused to issue summons to the postal authority as prayed for by the petitioner and has allowed the prayer of the plaintiff for recalling of D.W-I.

The defendant is denying service of eviction notice upon him; to prove the said case, he intends to cite a witness from the postal authority.

The defendant since has admitted that the notice was correctly addressed, the learned Trial Judge has opined that the presumptive value of

such admission regarding service of the said notice would be decided at the time of final disposal of the suit.

This Court does not find any illegality and/or infirmity in the said approach of the learned Trial Judge.

The learned Trial Judge by the second part of the order impugned has allowed the prayer of the plaintiff to put a contrary suggestion to the D.W.I on the veracity of *Ext. A* series. The said document since has been marked without any objection of the plaintiff, the exercise of recalling the said witness is unnecessary; therefore, the said second part of the order impugned is not sustainable and is accordingly set aside.

C.O. 3372 of 2024 is disposed of with the above observations without any order as to costs.

Parties to act on the server copy of this order duly downloaded from the official *website* of this Court.

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.)