

30.04.2025
Court No.652
Item No.1
sudipta

**IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE**

C.O. 303 of 2023

**Md. Sahidul Islam
Vs.
Sri Sankar Kumar Pal**

Mr. Gopal Ch. Ghosh, Sr. Adv.
Mr. RajKrishna Mondal,
Mr. Aviroop Bhattacharya.

...for the petitioner

Mr. Ranjan Kali,
Ms. Mitul Chakraborty
Ms. Payel Nath.

...for the opposite party

1. The present matter has been taken up under the heading "To Be Mentioned" pursuant to the order dated 8th of February, 2023 passed by the learned Co-ordinate Bench.
2. This Court has heard learned Senior Advocate for the petitioner and learned counsel for the opposite party in detail.
3. The present revisional petition has been filed challenging the order No. 60 dated 9th January, 2023 in Title Suit No. 226/2008 (7731/2014). The genesis of the dispute is regarding carrying out of the repair in the shop which is in possession of the plaintiff/opposite party since 1988.

4. The predominant objection being raised by the defendant/petitioner is that the learned Trial Court vide the impugned order allowed the application for carrying out the repair without any local inspection. Learned Senior Advocate has submitted that earlier applications to the same effect were not allowed and there was no fresh material on record for the learned Trial Court to pass the impugned order.
5. Admittedly, the Title Suit being filed by the plaintiff/opposite party is pending disposal before the learned Trial Court. The question as to the right, title and interest of the plaintiff/opposite party is to be determined by the learned Trial Court qua the defendant/petitioner. The Court after hearing both the parties considers that in order to meet the justice as being agreed upon by both the parties. The impugned order dated 9th January, 2023 is set aside without prejudice to contentions/averments being raised by both the parties. Learned Trial Court shall get the local inspection conducted of the suit premises and thereafter shall decide the application afresh being moved by the plaintiff/opposite party for carrying out the repair and restoration of water supply.

6. Hence, the order dated 9th January, 2023 is set aside. The learned Trial Court shall decide the application under Section 151 of the CPC afresh having been moved by the plaintiff/opposite party after carrying out the local inspection conducted within the period of two months.
7. The learned Trial Court shall decide the application independently on merits without being influenced by the order passed by this Court.
8. The petition being No. C.O. 303 of 2023 stands disposed of.
9. All parties shall act on the basis of the server copy of this order duly downloaded from the official website of this Court.

(Dinesh Kumar Sharma, J.)