

05.05.2025

Item no. ML25
Court No. 6

Asraf, A.R.(Ct.)

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE

Case No.

CO 1113 of 2025

SRI AJOY KUMAR SINHA

.... Petitioner

VS.

MUSST. NAZNIN ASLAM & ORS.

....Opposite Parties

For the Petitioner :

Mr. Anirban Kar

Mr. Nayeemuddin Munshi

Mr. Munshi Ashiq Elahi

Mr. Md. Sahidullah Mridha

Mr. Rohit Mahato

....Advocates

For the Opposite Parties :

Mr. Sobham Kr. Pathak

Mr. Ranjan Kali

Ms. Sneha Chakrabarty

....Advocates

Supplementary affidavit filed by the petitioner
in Court today is taken on record.

This application under Article 227 of the
Constitution of India is at the instance of the plaintiff
and is directed against an order passed by the learned
Judge, 12th Bench, City Civil Court at Calcutta in Title
Appeal No.25 of 2022 arising out of Ejectment Suit
No.23 of 2008.

By the order impugned, the application under
Order XXXIX Rule 7 of the Code of Civil Procedure,

1908 for appointment of an Advocate Commissioner to conduct local inspection on the points as mentioned in the Schedule of the said application stood allowed.

The learned advocate appearing for the petitioner submits that the petitioner got possession of some rooms in the suit property which are for commercial purpose and since the ground for eviction in the instant suit is for residential purpose, the learned Trial Judge ought not to have allowed the application for local inspection.

Mr. Kali, learned advocate appearing for the opposite parties submits that the petitioner got possession of several rooms by executing the decrees obtained by him in several eviction suits and the petitioner is in possession of alternative reasonable suitable accommodation and the requirement of the plaintiff stands satisfied. He submits that the learned Trial Judge was right in allowing the application for local inspection.

It is not in dispute that the petitioner filed the suit for eviction on the grounds mentioned under various clauses of sub-Section (1) of Section 6 including the ground of reasonable requirement. Where the landlord or any person, for whose benefit the premises is held, reasonably requires the

premises for his own occupation and the landlord or such person is not in possession of any suitable accommodation within the same Municipal Corporation or Municipality or any other area within ten kilometers from such premises where the Act extends, the decree for eviction under Section 6(1)(d) of the West Bengal Premises Tenancy Act can be passed.

From a bare reading of Section 6(1)(d), this Court of the view that the landlord, in order to get a decree of eviction on the ground of reasonable requirement, is required to prove that he reasonably requires the premises for his own occupation and also that he is not in possession of any suitable accommodation. It is not in dispute that the petitioner obtained possession of some rooms in the suit holding during the pendency of the suit. Whether the rooms, possession of which was obtained in the meantime, satisfies the requirement of the plaintiff is in issue in the appeal.

The learned advocate appearing for the petitioner would contend that the said rooms are for commercial purpose and the opposite parties state that the same is for residential purpose. The same has to be decided by the learned Trial Judge after the real picture comes before the learned Trial Judge.

From the schedule of the application under Order XXXIX Rule 7 of the Code of Civil Procedure, 1908, this Court finds that the opposite parties herein filed the application for appointment of the Commissioner in order to inspect the accommodation which the plaintiff has got by executing the eviction decrees during the pendency of the suit to inspect and to take measurement and also to report as to the mode of user of the same. This Court is of the considered view that the same is necessary for the purpose of deciding an appeal arising out of a suit for eviction on the ground of reasonable requirement. The learned Judge assigned cogent reasons for allowing the application for appointment of Advocate Commissioner.

For all the reasons aforesaid, this Court is not inclined to interfere with the order impugned.

Since the appeal arises out of suit for eviction, inter alia, on the ground of reasonable requirement, the learned Judge of the First Appellate Court is requested to make an endeavour to see that the inspection is conducted by the learned Advocate Commissioner as expeditiously as possible.

The learned Judge of the First Appellate Court is further requested to make an endeavour to dispose of the Title Appeal of 25 of 2022 in accordance with

law as expeditiously as possible without granting any unnecessary adjournments to either of the parties.

In view above observation and direction, **CO 1113 of 2025** stands **disposed of**.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties after completion of all necessary formalities.

(**Hiranmay Bhattacharyya, J.**)