

D/L- 16
13/06/2025
Ct. No.-6
Aritra

C.O. 1963 of 2025

**M/s. Laxmi Cottage Industries & Anr.
Vs.
Sri Kashi Nath Dalal & Ors.**

Mr. Abhijit Ray
Mr. Santu Nandy

....for the petitioner

Mr. Sourav Sen
Ms. Debdatta Manna

....for the opposite party

This application under Article 227 of the Constitution of India is at the instance of the defendant Nos.1 and 2 and is directed against the orders dated March 21, 2025 and April 28, 2025, both passed by the learned Judge, 4th Bench, Presidency Small Cause Court at Calcutta in Ejectment Suit No.287 of 2023.

By the order dated March 21, 2025 the application under Order 39 Rule 7 of the Code of Civil Procedure filed by the plaintiff/opposite party herein stood allowed. Thereafter, the petitioner filed an application for recalling of the said order which stood dismissed by the order dated April 28, 2025.

Mr. Roy, learned advocate appearing for the petitioner submits that the application under Order 39 Rule 7 of the Code of Civil Procedure was allowed on March 21, 2025 though the said date was fixed only for framing of issues and not for hearing of the application under Order 39 Rule 7 of the Code of Civil Procedure.

He further submits that no opportunity was given to the petitioner to file a written objection to such application.

Mr. Sen, learned advocate appears for the opposite party and submits that the copy of such application was duly served upon the petitioner and the petitioner chose not to file any written objection in spite of service.

Heard the learned advocates for the parties and perused the materials placed.

After going through the order dated March 21, 2025, this Court finds that the said date was fixed only for framing of issues. As rightly submitted by Mr. Roy the said date was not fixed for hearing of the application under Order 39 Rule 7 of the Code of Civil Procedure.

It is not in dispute that no opportunity was given to the petitioner to file any written objection to the application for local inspection.

For such reason, this Court is inclined to interfere with the orders impugned. Accordingly, the impugned orders are set aside.

The application under Order 39 Rule 7 of the Code of Civil Procedure is restored to the file of the learned Judge, 4th Bench, Presidency Small Cause Court at Calcutta. The defendants are directed to file a written objection to the application under Order 39 Rule 7 of the Code of Civil Procedure on or before June 20, 2025 upon serving an advance copy of the same to the learned

advocate on record of the plaintiff/opposite party herein before the learned trial judge.

It is uniformly submitted by the learned advocate for the parties that June 24, 2025 is the next date fixed in the suit. The learned trial judge is requested to take up the hearing of the application under Order 39 Rule 7 of the Code of Civil Procedure on the next date and to dispose of the same as expeditiously as possible without granting any unnecessary adjournments to either of the parties.

With the above observations and directions, CO 1963 of 2025 stands allowed.

There will be no order as to costs.

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

(Hiranmay Bhattacharyya, J.)