

10.04.2025
(D/L-13)
Ct.-17
(Susanta
Samar)

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION

C.O. 1793 of 2024
Smt Lakshmi Gurey & Ors.

-Vs-

Pradip Dubey (Babla) & Ors.

Mr. P. Das,

Mr. M. Patra,

...For the Petitioners.

Mr. Sovan Mukherjee,

.... For the Opposite Party Nos. 1-5.

Mr. Soumitra Bandyopadhyay,

Mr. Aniruddha Sen, For the State.

Affidavit-of-service filed on behalf of the
petitioners be kept with the record.

The matter has been brought to the list for
extension of interim order but by the consent of the
parties, it is taken up for final disposal.

The plaintiffs in a suit for eviction are the
petitioners of the present revisional application under
Article 227 of the Constitution of India which is directed
against order dated March 19, 2024 passed by the
Additional Court of learned Civil Judge (Junior
Division), Sealdah, District 24-Parganas (South) in the
said suit being Ejectment Suit no. 39 of 2013.

The plaintiffs in the said suit had filed an
application under Order XXXIX Rule 7 of the Code of
Civil Procedure for holding local inspection of the suit
property. The learned Trial Judge by the order
impugned has dismissed the same on the ground that
the trial of the suit has commenced.

The learned advocate for the petitioners submits that reasonable requirement is one of the grounds for eviction in the suit, as such the plaintiffs are under the obligation to prove that their present accommodation in the suit property is not sufficient and to demonstrate the same, they had prayed for inspection of the suit property, the learned Trial Judge, therefore, is not justified in refusing the said prayer.

The learned advocate for the defendants, the opposite parties herein submits that the suit property is comprised in Thika tenancy as such, in view of the bar under Section 21 of The West Bengal Thika Tenancy(Acquisition and Regulation) Act, 2001, the suit is not maintainable before the Civil Court and the Honb'le Division Bench in an appeal being FMAT 1319 of 2016 had directed to decide the said issue, as such, inspection of the suit property is futile exercise.

Heard learned counsel for the parties, perused the materials on record.

To succeed on the ground of reasonable requirement, the plaintiffs are required to prove that except the suit property, they do not have any suitable alternative accommodation available. The local inspection is a method to ascertain the extent of present occupation of the plaintiffs in the suit property which is in aid of the ground of reasonable requirement, therefore, the prayer of the petitioners should not have been denied on the ground that the trial of the suit has commenced.

The order impugned for the aforesaid reason is not sustainable and is set aside.

The learned Trial Judge is requested to appoint an Advocate commissioner for holding local inspection of the suit property at the costs of the plaintiffs. In view of the matured stage of the suit, the learned Trial Judge shall ensure that such commission work be concluded as expeditiously as possible.

C.O. 1793 of 2024 is disposed of with the above terms 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.)