

12.11.2025

Court No.6
D/L No.14
S. Gayen

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

CO 3608 of 2025

**Omair Kumar Das @ Amir Kumar Das
Versus
Manju Das & Ors.**

Mr. Sukumar Ghosh
Ms. Moumita Ghosh

...for the Petitioner

Mr. Sagar Bandyopadhyay, Sr. Adv.
Ms. Soma Kar Ghosh
Ms. Suparna Paul
Ms. Shilpi Ghosh

...for the Opposite Parties

1. The petitioner has challenged an order dated August 14, 2025, passed by the learned Civil Judge (Senior Division), Chandernagore, Hooghly in Title Appeal No. 03 of 2024. The Title Appeal was filed from an eviction decree, passed in Tile Suit No. 55 of 2018 by the learned Civil Judge (Senior Division), Chandernagore, Hooghly.
2. By the order impugned, the learned Appellate Court rejected an application under Order 39 Rule 7 of the Code of Civil Procedure for local inspection of a shop room, in respect of which the petitioner claims tenancy rights. The learned Court was of the view that justice would not be subserved by such

repeated enquiries. The purpose behind the application was only to fish out evidence. The prayer for local inspection upon visiting the suit shop, making a rough sketch, ascertaining whether the shop exists, whether the same was functioning, whether any padlocks had been placed on the shutters and a report on the details of the local features, were extraneous to the issues involved in the appeal.

3. In my view, such observations are correct. The learned Court also found that, during pendency of the suit, similar prayers were made and the application was rejected. A miscellaneous appeal was preferred and thereafter on dismissal of the miscellaneous appeal, a civil revisional application was filed, which was also dismissed.
4. The plaint case narrates that the petitioner was the tenant in respect of a shop room and did not pay the rent from 2017. He stopped operating from the shop and kept the shop room under lock and key. Such pleading is available in paragraph 5 of the application. An application under Order 39 Rule 4 read with Section 151 of the Code of Civil Procedure was filed after the order of injunction directing status quo with regard to the shop room had been passed. It was alleged that the defendants broke open the

petitioner's padlock and damaged the fixtures etc. The learned Trial court rejected the application on the ground that, from the very beginning it was the petitioner's contention that the shop room was under lock and key.

5. The contention that a commission should be held and the commissioner should be directed to open the padlock affixed by the plaintiff, was not accepted by the learned Trial Court. The miscellaneous appeal therefrom was also not allowed. The appeal was rejected with the observation that, without any evidence that the defendant had forcibly affixed the padlock upon breaking open of the petitioner's padlock, the prayer could not be allowed. The Revisional Court observed that the learned Trial Judge and the learned Appellate Court were justified in rejecting the earlier application.
6. The suit was decreed. Title Appeal was preferred by the petitioner. Again, local inspection was sought for with regard to the self-same shop room with similar allegations in the appeal. The application was rejected.
7. There are no changed circumstances which necessitated the filing of the application, in the pending appeal. Moreover, the learned appellate Court was right in holding that in deciding the Title

Appeal, the only issue to be gone into was whether the learned Trial Judge rightly passed the decree in favour of the opposite party or not.

8. A roving enquiry, to collect evidence, is not permissible in law. In my view, the condition of the shop room will not have any bearing on the final decision in the appeal.
9. I do not find any illegality in the order impugned. The revisional application stands dismissed.
10. By way of a supplementary affidavit, the petitioner has brought on record another application which has been filed before the learned appellate court under Section 151 of the Code of Civil Procedure. This Court does not make any observation on the same.
11. The learned Court will decide the matter in accordance with law at its convenience, independently and on its own merits.
12. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Shampa Sarkar, J.)