

24.11.2025
SL No.11
Court No.6
(gc)

CO 3979 of 2025

**Sanjay Kumar Agarwal & Anr.
Vs.
Ramesh Kejriwal**

Mr. Prantick Ghosh,
Mr. Prasad Bhattacharyya,
Ms. Shravani Ghosh
...for the Petitioners.

1. In a suit for declaration and permanent injunction, the petitioners, as plaintiffs, filed an application for local inspection. The learned Civil Judge (Jr. Divn.), 1st Court at Barasat by an order dated September 17, 2025 rejected the said application. The prayers in the Title Suit No.1228 of 2024 are as follows:-

“In the circumstances, your plaintiffs most humbly pray that Your Honour would be graciously pleased to pass the following relief -

- a) A decree of be declared that the plaintiffs are the absolute owners of the “B” Schedule property having right, title, interest and possession of the same and the defendant has no right, title, interest and possession over the same.*
- b) A decree for permanent injunction restraining the defendant and his mean and agents from disturbing the peaceful possession of the plaintiffs “B” Schedule suit property.*

- c) *A decree for permanent injunction restraining the defendant and his men and agents from changing the nature and character of the “B” Schedule suit property thereof in any manner whatsoever.*
 - d) *Any other relief/reliefs to which the plaintiffs are entitled under law and equity and natural justice be decreed.”*
- 2. The plaint case is that a car parking space no.4 had been handed over by the developer and was being possessed by the plaintiffs. Sometime, in September 2022, the defendant forcefully tried to remove the car of the plaintiffs from the said space and also indulged in other illegal activities. Such hooliganism continued over a period of time. The plaint case further elaborates that the defendant tried to cover up the parking space by constructing a break wall.
- 3. The defendant filed the written statement and denied the existence of car parking space no.4 in the ground floor of the apartment. According to the defendant, the description and the existence of the suit property was completely imaginary. The sanction building plan did not provide for any car parking space. The plaintiffs did not have any document to show that there was any kind of mutual arrangement with the developer with

regard to allotment of such open car parking space.

4. The positive case of the plaintiffs is that the developer had handed over the car parking space and the defendant had encroached upon the same. Whereas, the defence case is that no such car parking space exists. The defence case is that the defendant has a unit right in front of the alleged space, which was never meant to be a car parking space.
5. The points for local inspection are as follows:-
 - a) *To see or to note as to whether there are any open car parking spaces on the ground floor of the building Natural Nest standing at Tegharia under P.S. Baguiati, Kolkata – 700157. If that be so, mentioned the numbers of car parking and with marked as numbered upon which any car is/are standing thereon or not.*
 - b) *To see or to note as to whether there is any defendant's unit in front of the car parking space is standing or not?*
 - c) *To see or to note as to whether there is any common space between the open car parking space and unit of the defendant? And which car standing on the said parking creates obstruction to the defendants or not? If so give details?*
6. Although the learned Court rejected the said application on the ground of the application for

local inspection was not properly drafted and the points were vague. In my view, each of these questions which the petitioners seek to be determined by an Advocate Commissioner, amounts to fishing out evidence. Whether there is a car parking space in the ground floor which had been allotted to the plaintiffs by the developer, whether the defendant has a unit in front of the space, whether cars are parked in the space, will have to be proved by the plaintiff in evidence.

7. Under such circumstances, the question of allowing this application for local inspection does not arise.
8. Accordingly, the revisional application is dismissed.
9. There shall be no order as to costs.
10. Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)