

Item No.20
04.02.2026
Court. No. 6
GB

C.O. 159 of 2026

Surajit Basu Roy @ Surojit Basu Ray
Vs.
Suriti Ray @ Suriti Banerjee

*Mr. Prabhat Kumar Singh,
Mr. Prasanta Kumar Singh*

...for the Petitioner.

*Mr. Shiv Shankar Banerjee,
Mr. Partha Pratim Das,
Mr. Siddhartha Chamria*

...for the Opposite Party.

1. The petitioner is aggrieved by an order dated December 5, 2025, passed by the learned Judge, 5th Bench, Presidency Small Causes Court at Calcutta in Ejectment Suit No.235 of 2017.
2. By the order impugned, the learned court rejected an application under Order 39 Rule 7 of the Code of Civil Procedure. The petitioner is also aggrieved by the rejection of an application under Section 151 of the Code of Civil Procedure, by which the petitioner had prayed that portions of the report of the learned Advocate Commissioner be deleted or expunged from the records.
3. The petitioner submits that a further local inspection of the premises in occupation of the plaintiff and the defendant should be made. According to the petitioner, certain portions which are in occupation of the plaintiff, have been left out. There was no occasion for the Advocate Commissioner to inspect

the Thakur Ghar. The report suffers from various irregularities and discrepancies.

4. The learned advocate for the opposite party submits that the local inspection was held earlier on the same points. He places reliance on the report filed by the learned Advocate Commissioner which elaborates the area under the occupation of the plaintiff and the area under the occupation of the defendant. The articles which are present in the house, the nature of user of the portions occupied by each of the parties have been elaborately stated in the said report. It is further seen that the report was marked as an exhibit and the Advocate Commissioner was cross-examined by the petitioner. In the cross-examination no question with regard to the falsity of the report, the mistakes in the report, spaces available to the plaintiff having been left out in the report, were put.
5. In the application which has been filed before the Court, no averments have been made that the plaintiff was in occupation of other portions in the suit building, but such fact had come to the knowledge of the defendant after the cross-examination of the Advocate Commissioner. The learned court was of the view that, as the Advocate Commissioner who was examined before the Court as P.W.2 was also cross-examined at length by the

defendant and the report was marked as Exhibit-9 collectively, the application should not be allowed. No objections were raised by the defendant when report was marked as an exhibit. The inspection was held in the presence of the learned advocates for both the parties. No objection was raised at the relevant point of time. The field notes which were prepared by the learned Advocate Commissioner, were duly signed by the parties without any objection.

6. The court was of the view that the suit was filed for eviction on various grounds including reasonable requirement. It was for the plaintiff to prove her reasonable requirement and it was the duty of the defendant to disprove the case of the plaintiff. The defendant was trying to fish out evidence. It was the court's view that the defendant should adduce evidence to demolish the plaintiff case. The defendant was given opportunity to cross-examine the learned Advocate Commissioner to disprove the case of the plaintiff for reasonable requirement. The defendant should not be permitted to collect further evidence to support his defence case by appointing another Advocate Commissioner.
7. I do not find any illegality or irregularity in the order impugned. The defendant /petitioner, is at liberty to lead evidence and demolish the plaintiff case.

8. The defects in the report may be pointed before the learned court and the discrepancies may be established by leading contrary evidence.
9. Accordingly, the revisional application is dismissed.
10. Parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)