17.11.2026
Ct. No.652
D/L 10
(NMD)

C.O. 4249 of 2025
With
CAN 1 of 2025

Sri Asok Kumar Pal & Ors.
Vs.
"Santan Sangha" & Ors.

Mr. Pronojit Roy,
Mr. Arindam Bit
...for the Petitioners

Mr. Suhrid Sur
...for the Opposite Parties

1. An order of the learned Civil Judge (Junior Division), Fast Track Court at Chandannagore, Hooghly dated 04.09.2025, in Title Suit No. 177 of 2020 is under challenge in the instant revisional application.
2. The Court, in the same, while considering the petitioner-plaintiff's application under Order XXXIX Rule 7 read with Section 151 CPC, has found it not to be feasible to appoint an Advocate Commissioner as prayed for by the plaintiff before the Court and rejected the plaintiff's prayer under Order XXXIX Rule 7 read with Section 151 CPC. Hence, this revision.
3. The submission of the petitioners through learned advocate Mr. Pronojit, Roy, is based principally on the ground that the suit property is being used for a purpose different from those within the scope of the license agreement entered into between the parties; and it is required that a Commissioner may be

appointed to enquire and report to the Court regarding the same.

4. Vehement objection has been raised on behalf of the opposite parties/defendants. It is submitted that the petitioner's contention in the Order XXXIX Rule 7 application as well as the plaint, does not satisfy the grounds for the Court to allow the petitioner's prayer for appointment of Advocate Commissioner; rather it was for the purpose of fishing out evidence, which is prohibited and impermissible under the law. Further that the suit is now ready for hearing after completion of exchange of pleadings between the parties.

5. Having heard both the learned advocates for the respective parties and having considered the impugned order passed by the learned Trial Court, this Court is of considered opinion that so far as the scope of Order XXXIX Rule 7 CPC is concerned, the impugned order is within the scope of law and hardly shows any impropriety, much less any illegality in the same. It is incumbent upon the plaintiff to establish, by cogent and convincing evidence, the grounds of eviction specifically pleaded in the plaint, and such burden cannot be discharged merely by making allegations or seeking an investigation into the physical condition of the suit property. The provision under Order XXXIX Rule 7 of the CPC cannot be invoked as a matter of course, unless the circumstances of the case such an investigation for the purpose of assistance of Court in determination of the issues involved. In view of

the grounds pleaded by the applicant / petitioner in his prayer under Order XXXIX Rule 7 of the CPC it appears that the Court has assigned sufficient and cogent reasons and come to a finding which is just and proper. Therefore, the impugned order suffers from no illegality, impropriety or jurisdictional error. In such view of the matter, this Court is of the opinion that there is hardly any scope for this Court to interfere into the same. That way the present revision should not succeed.

6. Hence, the present revision, along with application if any, is dismissed. However, let it may be mentioned that the petitioners shall be at liberty to file further application for the purpose, if so advised, stating proper grounds, for consideration of the Court.
7. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Rai Chattopadhyay, J.)