

Order no. 17
Dated 22.07.2024.

Today is fixed for hearing of the petition filed by the plaintiff under Section 151 of CPC dated 08.12.2022 and the petition dated 18.01.2023 and extension of the ad interim injunction order.

Both parties are present by filing their respective Hazira through their Ld. Advocate.

Plaintiff files one petition seeking extension of the order of ad interim injunction supported by affidavit, on the ground stated therein.

The prayer is considered and allowed.

On careful perusal of the case record it appears to this court that one petition filed by the defendant under Order 39 Rule 7 of CPC dated 22.02.2023 is also pending on record.

Considering the nature of the petitions filed by the plaintiff and the prayer contained therein, this Court is inclined to conduct the hearing of the petition filed by the defendant under Order 39 Rule 7 of CPC dated 22.02.2023 before considering the other petitions pending on record.

The record is taken up for hearing of the petition filed by the defendant under Order 39 Rule 7 of CPC dated 22.02.2023 with the consent of both sides.

Heard both sides.

Perused the case record including the instant petition dated 22.02.2023.

Considered.

Ld. Council appearing on behalf of the defendant by filing the instant petition prayed for an order directing local inspection and also submitted that the same is necessary for ascertaining the actual situation of the suit property and the same will not curtail any right of the other side.

Ld. Advocate on behalf of the plaintiff raised formal objection against the prayer of the defendant.

Having heard both sides and on perusal of the application as well as other materials available on record and the relevant law contained in the Code of Civil Procedure, this Court finds no impediment to allow the instant petition filed by the defendant the same is necessary for proper adjudication of the dispute between the parties to the suit and will be helpful for the Court to ascertain the actual facts relating to the instant suit.

Ld. Advocate **Sumit Sharma** is hereby appointed as local inspection Commissioner to conduct the commission work **as per point no 5 of the petition** and after serving notice upon both the parties and also after complying all the legal formalities. Ld. Advocate Commissioner is directed to submit his report within 15 days from the date of receive of writ. Ld. Advocate Commissioner is entitled to get Rs.3500/-(Rupees Three Thousand Five Hundred) only for holding the local inspection. The defendant is directed to pay the said cost into the hands of Sumit Sharma, defendant is also directed to file the requisites at once.

Office is directed to issue writ after perusal of money receipt and complying with all the legal formalities.

Hence it is

Ordered.

that the petition be and the same filed by the defendant u/o. 39 R 7 r/w Section 151 of CPC dated 22.02.2023 is allowed on contest but with cost of Rs.3500/-(Rupees Three Thousand Five Hundred) only to be paid to the Ld. Advocate Commissioner.

To **08.08.2024** for filing Commission Report and extension of the *ad interim* injunction order.

D/C by me.
Sd/-

Civil Judge (Jr. Divn.)
3rd Court, Asansol
J.O WB01326

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