

Commercial Suit (Commercial) – 02/2023
[CNR No : WBBD17-000006-2023]
J.O Code : WB01311

Order No. – 22

Dated : 02/11/2024

This day is fixed for filing list of witness by the defendant and affidavit-in-chief of witnesses as well as hearing of IA no. 22 of 2024 & IA no. 23 of 2024.

Both sides file hazira.

The defendant files list of witnesses.

IA no. 22 of 2024 has been filed by the defendant U/Or. XXXIX Rule 7 of the CPC praying for appointing an Advocate Commissioner to take inspection of the suit property as per the schedule.

Written objection has been filed.

It is submitted by the Ld. Advocate for the defendant that although the plaintiff has claimed to have carried out certain development work at the suit property but as on date the plaintiff has failed to start any construction work at the suit property even after the building plan has been sanctioned. He also submitted that the actual facts has to be ascertained and the real picture of the suit property has to be brought to the notice of the Court for effective adjudication of the suit.

Ld. Advocate for the plaintiff disputed the submission of the defendant and submitted that at the time of filing the suit some construction work had been carried out but no such construction activity is going on at present. He whoever candidly submitted that he has no objection if local inspection is held.

Accordingly the application filed by the defendant is allowed Miss Poli Bhattacharya, Ld. Advocate (Mob: 9332200589) is appointed as the Commissioner to take inspection of the suit property in terms of the schedule.

Let a copy of this order be given to Miss Poli Bhattacharya along with a copy of the schedule of inspection to be carried out.

The defendant shall also supply the copy of the plaint as well as the schedule of inspection to the Ld. Advocate Commissioner.

The remuneration of the Ld. Commissioner is fixed at Rs. 5,000/- to be paid by the defendant.

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The Ld. Commissioner shall file **report** on **18/12/2024**.

Since it is submitted by the Ld. Advocate for the plaintiff that at present his client is not carrying out any construction work I am of the considered view that no order is required to be passed in IA no. 23 of 2024 whereby the defendant has prayed for direction upon the plaintiff to maintain the status-co of the suit property.

IA no. 23 of 2024 is accordingly disposed of.

To date (18/12/2024) for filing report.

D/C by me

Judge, Commercial Court
At Asansol

Judge, Commercial Court
At Asansol