

Title Suit No. 05 of 2021
CIS No. 05 of 2021
CNR No. WBBK07-000018-2021
Present : Sri Tanumoy Karmakar (J.O. Code: WB01209)

Order no. 33
Dated 02-04-2025

Today is fixed for framing of issues and filing substituted copy of plaint as well as hearing of application filed by the defendant for making an wall over the suit property.

Memorandum of appearance filed by plaintiffs and defendant no.1.

Today Ld. Counsel for the plaintiff filed substituted copy of plaint along with one application under Section 151 of the CPC with a prayer to accept the substituted copy of plaint. The substituted copy of plaint was served to the Ld. Counsel for the defendants and he received the same by putting his endorsement.

Perused the substituted copy of plaint and it is found correct.

The substituted copy of plaint is accepted.

Thus, the application under Section 151 of the CPC is hereby disposed of.

Ld. Counsel on behalf of the plaintiffs filed W.O. against the petition filed by defendants on 01-04-2023 along with one petition under Section 151 of the CPC with a prayer for accept the W.O. In this context, it is pertinent to mention here that direction was given to the plaintiffs for filing the W.O. in the meantime, but they failed to file W.O. in the meantime and accordingly such petition under Section 151 of CPC has been filed.

Considering the above noted circumstance, the application filed under Section 151 of the CPC is hereby allowed contest. ,

Thus the W.O. is accepted.

The copy of W.O. is supplied to the Ld. Counsel for the defendant no.1 and she received the same by putting her endorsement.

Now, the case record is taken up for hearing the application filed by the defendants for permission to make construction of boundary wall over the suit property.

Heard Ld. Counsels for both sides at length.

Perused the application as well as the W.O.

The crux of the application is that the defendants are facing various problems because neither they have any privy nor they have any boundary wall for protection of his house. However, it is pertinent to mention here that the instant suit has been filed for partition and without a final decree, order of construction cannot be granted because there is apprehension of changing the nature and character of the suit property. It is also pertinent to mention here that the temporary injunction application has been disposed of where defendant no.1 & 2, their men agents and associates have been restrained from changing the nature and character of the suit property by making any construction. The order of temporary injunction was made absolute vide order no.30 dated 19-12-2024.

Considering the above noted circumstances the application dated 01-04-2023 preferred by the defendant for permission to make construction is hereby rejected on contest but without any order as to costs.

Now, the case record is taken up for framing of issues for speedy disposal of the suit.

Perused the pleadings of the parties.

Heard Ld. Counsels for both sides at length.

Accordingly, issues are framed on a separate sheet and the same is kept with the record.

Fix **10-06-2025** for P.H.

Discovery and inspection, if any, in the meantime.

Update CIS forthwith.

Dictated & Corrected by me.

Civil Judge (Sr. Divn.), Bishnupur

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