

T.S. No. 37 /17

Order no. 29 dated 16.11.18

Today is fixed for hearing local inspection petition, WO if any, in the meantime, filing vokatnama by defendant nos. 1a to 1c and SR of proforma defendants.

Received no SR of proforma defendants.

Plaintiffs and defendant nos. 2 filed haziras.

Defendant nos.1a to 1c have filed executed vokatnama and a verified application for adopting the WS filed by defendants on 25.10.17.

Considered and for the ends of justice the prayer is allowed.

Defendant nos. 1a to 1c are permitted to adopt the WS dated 25.10.17.

Now, record is taken up for hearing local inspection application.

Heard both parties.

Perused the petition and other materials in the case record.

Ld. Counsel for plaintiffs stated that the local inspection was filed on the very date of filing of this suit as principal defendants were trying to raise illegal and authorize construction in the suit property. Under the circumstances to ascertain the real position of the suit property local inspection is needed by appointing an Advocate Commissioner in respect of points of local inspection as mentioned in the application. Principal defendants though raised strong voice against this application, felt to no necessity to file any WO in this connection. Record goes to show that plaintiffs got an order of ad interim temporary injunction on 31.08.17 which is still in force and they have also filed a separate case under order 39 rule 2(a) read with section 94(c) and section 151 CPC. Further points for local inspection in the application go to show that in the event of holding local inspection in respect of those points the actual features of the suit property will come up. Therefore, for fair justice I fell inclined to allow this application.

Hence, it is

ordered

that the petition under order 39 rule 7 read with section 151 CPC filed by plaintiffs on 31.08.17 is considered and allowed on contest.

Sri

Ld. Advocate is appointed as Advocate Commissioner in this suit. The Ld. Advocate Commissioner is directed to hold local inspection in respect of points of inspection as mentioned in the petition after serving notice to both parties and to submit report before this court on the next date fixed. Plaintiffs are directed to pay a Sum of Rs.2,000/- to the Ld. Advocate Commissioner as commission costs and to submit receipt thereof along with copy of plaint and the instant application.

Writ will be issued accordingly.

To 18.12.18 for commission report and hearing of temporary injunction application.

As per prayer of plaintiffs ad interim order of temporary injunction is extended till date.

Dictated and corrected

by me

**Sd/- S.K. Kundu
Civil Judge (Sr. Divn.),Bishnupur.**

