

T S 1086 of 2018

order no. 4 dated 29.08.2018

The record is put up today by petition.

Plaintiff files an application u/o 39 R 7 and 8 of CPC read with Section 151 CPC stating interlia that this Court by order dated 21.08.2018 passed an ad interim order directing the defendants to maintain status quo in respect of the nature and character of the suit property till 19.09.2018. That the said order has been communicated to the defendants and affidavit of service has been filed but the defendants having knowledge of the said order are still doing illegal construction in the suit property. That the plaintiff time and again requested the authorities of Park Street P.S. to take steps for implementation of the said order but to no effect and they are insisting for formal order to that effect from the ld. Court. That to elucidate the question involved in the application for temporary injunction an advocate commissioner is required to be appointed to inspect and report on the points mentioned in the petition. Hence, plaintiff prays for passing necessary order to that effect.

Heard ld. Advocate for plaintiff. Perused materials on record.

The plaintiff has filed postal track reports along with postal receipts regarding

compliance of provision of Order 39 R 3(a) and (b) CPC. From the allegation mentioned in the petition by affidavit it appears that an order of local inspection commission is required to be passed at this stage otherwise the purpose of making such application would be defeated by delay.

Hence, prayer is considered and allowed. Let Sri Tanmoy Kar, advocate of City Civil Court be appointed Commissioner for holding local inspection as per points mentioned in the schedule of the petition. The Commissioner shall hold inspection work as early as possible after giving notice to both the parties and submit report at the earliest. The plaintiffs are directed to pay Rs.5000/- to the Id. Commissioner as preliminary expense of commission work. Let a copy of the plaint and petition be given to the Commissioner.

Issue writ accordingly.

Plaintiffs also file an application u/s 151 CPC praying for directing O.C., Park Street P.S. and K.M.C. authorities to take steps for implementation of the order dated 21.8.2018.

This application will be heard after submission of report by the Id. Advocate Commissioner.

Dictated and corrected by me :

Judge

Judge