

L.A 07 of 1993
CNR No. WBCC01-000324-1993

Present: Sri Subhash Kumar Kar, Judge, Bench-V (WB00592)

Order No. 56/ Dated 02.04.2024

Parties have taken the respective steps.

The date is fixed for hearing of the petition under Order XXVI Rule 1 and 2 read with Section 151 of the C.P.C filed by the caveator.

Ld. Advocate for the petitioner has submitted the written objection to the said petition and the same be kept with the record.

The petition under Order XXVI Rule 1 and 2 read with Section 151 of the C.P.C is taken up for hearing.

Heard both sides on the petition. Seen the record.

This petition is made on behalf of the caveator on the ground that the caveator is suffering from orthopedic issue and she is unable to move out of her house due to pain in knee joint and as such she is unable to attend the Court for deposition and it is prayed to pass necessary order to record her evidence through commission.

In support of her contention a photocopy of the medical certificate issued by one Dr. Debasish Pal is annexed with the petition wherefrom it appears that the caveator is suffering from astio arthritis.

Therefore, having regards to the materials placed on record the petition under XXVI Rule 1 and 2 is allowed.

Ld. Advocate Sri Manabendra Saha Roy is hereby appointed as Ld. Commissioner for examination and recording the evidence of caveator namely Kabita Dey nee Sen at her residence at 144A, Nimu Gossaaain Lane, Kol-700005 on a date to be fixed by the Ld. Commissioner after serving notice on both sides without granting any adjournment.

Mr. Saha Roy shall be paid remuneration of Rs.8000/- per sitting for said commission subject to maximum three sittings.

Caveator shall serve the copy of the examination-in-chief on affidavit on the petitioner or his Ld. Advocate at least four days prior to the appointed date to be fixed by the Ld. Commissioner for recording deposition of the witness.

Bench Clerk is directed to hand over the file of the original documents lying in the case record to the Ld. Commissioner for facilitating the commission work on acknowledgment of the same.

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Caveator is directed to pay Rs.8000/- as initial cost of the commission at once.

D.A to issue writ on payment of initial cost of the commission.

The Ld. Commissioner is directed to return the commission along with his report positively by the next date fixed.

Let a copy of this order be made available to the Ld. Advocate Commissioner for his information and necessary action.

Fix 29.04.2024 for submission of commissioner's report.

D/c by me,

Sd/-
Judge.

Sd/-
Judge, Bench-V,
City Civil Court, Calcutta.