

**T.S. 25 of 2017 (C.I.S 156 of 2017)**

**Order No. 13**

**Dated 06.09.2017**

Today is fixed for hearing petition dated 24.4.2017 and 3.6.2017 and S/R.

Defendant Nos. 1, 2 and 3 file represented hajira.

Plaintiff has filed hajira along with a petition praying for extension of ad interim injunction, supported by affidavit.

The petition is considered and allowed. The ad interim injunction is extended till next date.

It appears that in petition dated 24.4.2017 the plaintiffs have prayed for removal of temporary obstruction from the barampath located at the eastern bank of doba in plot No. 470. In petition dated 3.6.2017 defendant Nos. 1, 2 and 3 have prayed for local inspection as per schedule annexed to the petition. It appears that the local inspection will help in brining the real picture of the suit property before the Court which will also help in effectively adjudicate upon petition dated 24.4.2017. Therefore, at this stage petition dated 24.4.2017 is kept in abeyance for hearing at a later stage and petition dated 3.6.2017 is taken up for hearing.

Ld. Advocate for plaintiffs has raised strong objection against the inspection petition stating that local inspection may not be permitted in respect with non suit plots. Other than that previous local inspection has already been held in this suit. Therefore, fresh inspection is not required at this moment.

Ld. Advocate for defendants has submitted that they have filed W.O against the earlier inspection report pointing out some irregularities and errors in the previous inspection report. Therefore, fresh inspection is necessary.

I have heard Ld. Advocate for both sides. Perused all the relevant materials on record. It appears from the relevant materials on record that the instant suit is filed by plaintiff praying for title declaration in respect with 0.875 decimal property in plot No. 470 of mouza Urdhabmal. The claim of the plaintiffs is principally based upon a deed of gift being No. 1263 for the year 2016. Although plot No. 464 and 465 are not suit plots but they are the integral part of the deed of gift as stated above. In petition dated 24.4.2017 plaintiffs have alleged that defendants have raised obstruction in the 'A' and 'B' strip barampath at the Eastern Bank of doba in plot no. 470. The schedule of inspection petition dated 3.6.2017 reveals that if local inspection is conducted it will specifically bring the actual picture of the suit property. In the interest of effective adjudication of petition dated 24.4.2017 and also to clearly understand the nature and character of suit property, the local inspection appears to be reasonable and necessary. The local inspection petition is not to be rejected only because the schedule includes non suit plot Nos. 464 and 465 because the plaintiff's claim, which is based upon deed of gift for the year 2016, cannot be effectively adjudicated upon without having the picture of the adjoining plots. The defendants have raised objection regarding the earlier inspection report. But without going into the merit of such objection it appears that the previous local inspection report does not exhaustively reflect the actual picture of the suit property.

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Therefore, in the interest of effective adjudication the instant petition is considered and allowed without costs.

Let, **Sri Biswajit Samanta** , a practicing Ld. Advocate of this Court be appointed as local inspection commissioner to hold local inspection as per schedule of the instant petition.

The plaintiff is directed to pay Rs. 1,200/- only as Ld. commissioner's fees. Ld. Commissioner is directed to hold local inspection after serving notice upon both parties and in their presence.

Issue writ as soon as payment is made.

To date ( 19.12.2017) for inspection report.

D & C by me

Civil Judge (Jr. Divn),  
Haldia

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Haldia