

14
02-02-2016

Today is fixed for hearing of petition under order 39 rule 7 and filing of W/O, W/S as last chance.

Both parties file their respective Haziras.

Defendant filed two separate *W/O against injunction petition and against appointment of local inspection commission petition, W/S against* *plaint.*

Let this W/Os and W/S be kept with the record.

Now record is taken up for hearing of petition dated 17-07-2015, filed by the plaintiff of the suit, for local inspection u/o39 rule 7 CPC read with section 151 CPC.

Heard both sides.

Ld. Advocate for the Plaintiff submits that the Defendants by violating the order of ad-interim injunction trying to change the nature and character of the suit property by constructing the suit property and by gathering building materials at the suit property. Hence, the plaintiff prays for appointment of a local inspection commissioner in order to inspect the present condition of the suit property and give the actual picture of state of things of the suit property .

Ld. Advocate for the Defendant by filing W/O raises vehement objection against the point no. 2, narrated in schedule of the instant petition. The Ld. Adv. For defendant submitted that point no. 1 and 3 covered all the details regarding the present condition of the suit property and point no. 2 is for creating evidence in his favour and it is also a vague point.

Perused the instant petition for local inspection and other materials on record. Upon perusal it appears to me that the local inspection petition is ought to be allowed subject to modification, to resolve the matter in dispute at present.

Hence it is

Ordered

That the petition dated 17-07-2015 for local inspection u/o39 rule 7 read with section, 151 CPC, is considered and allowed on part on contest.

Let **Smt. Anandamoyee Nag**, Ld. Advocate of this Bar be appointed as local inspection commissioner in this suit for holding local inspection on the point No. 1 & 3 and should ignore the point no.3 ,stated in the petition for local inspections of the Plaintiff dated 17-07-2015. She is directed to note the details local features of the suit property as mentioned in point no.1 of the petition.

She shall proceed to the location after servicing notices upon the parties or through their Advocates on record and to hold location inspection according to law.

The Commissioner's report shall be filed within 15 days from the date of receipt of writ.

The Plaintiff is directed to deposit a sum of **Rs.800/-** in court towards the consolidated cost of the Ld. Commissioner at once.

Plaintiff also files a petition for extension of interim order granted earlier. The same is considered and allowed. Interim order granted earlier stands extended till next date.

Fix _____ for commissioner's report and injunction hearing.

C.J. Jr. Divn.

Amta, Howrah.