

Title Suit - 97 of 2024

Order No. 07 dated 08.04.2025

Today is fixed for hearing of the applications u/Or 39 r 7 CPC dated 31.01.2025 and petition u/S 151 of CPC.

The petition u/Or 39 r 7 CPC dated 31.01.2025 is taken up for hearing.

Plaintiff filed hazira along with an application for extension of ad interim order of injunction.

Defendant Nos. 1 and 2 filed hazira along with a application for adjournment for filing of WO and WS which is allowed on the ground stated therein.

Ld. Advocate for the plaintiffs submitted that the defendant Nos. 1 and 2 are violating the ad interim order of injunction passed by this Court. They are trying make illegal construction over the suit property and continuously transferring the same by executing the registered deed in favour of the third persons in respect of the suit property. So to ascertain the actual position and to bring the real picture before the Court for proper adjudication of the suit it is necessary that a commissioner for inspection be appointed for investigation of the suit property. Plaintiffs undertake to bear the cost of the commission work. So, a commissioner needs to be appointed for holding local inspection as per the points of the schedule.

Ld. Advocate for the defendant Nos. 1 and 2 raised vehement objection stating that the other defendants have not yet appeared and as such the petition cannot be heard in their absence. It is also not clear as to on which dag the defendant Nos. 1 and 2 are doing illegal activities. So the petition should be rejected.

On careful perusal of the case record, it is seen that the injunction order has been sought for on defendant Nos. 1 and 2 and it is also mentioned in the petition that the defendant No. 1 and 2 are violating the injunction order by raising illegal construction and transferring the suit property. So the local inspection has been sought for against the illegal activities of the defendant No. 1 and 2 and in respect of the suit property. So this Court finds that amid such controversy an investigation is needed to explore the truth lies behind the curtain for proper adjudication. Therefore, this Court thinks it to be sensible to allow the petition u/Or 39 r 7 CPC dated 31.01.2025. Thus the relief sought for is hereby granted.

Hence, it is

ORDERED

The aforesaid petition u/Or 39 Rule 7 of C.P.C. filed by the plaintiffs is hereby allowed on contest without any order as to cost.

That **Smt. Mita Roy**, practicing advocate of this Court, is hereby appointed as Advocate Commissioner to hold commission work at the locale and on the points mentioned in the schedule of the commission petition.

The Ld. Commissioner is directed to submit his commission report by 13.06.2025 positively. Parties are directed to co-operate with the Ld. Commissioner without taking any adjournment on any ground. The cost of the commission work is hereby fixed at **Rs. 2000/- (Rupees Two Thousand) only** payable by the plaintiffs by hand to the Ld. Advocate Commissioner along with the copy of Commission petition on proper receipt.

Writ of the Commission work shall be prepared on submission of receipt of payment of cost of commission work and the documents to the Ld. Commissioner accordingly.

The aforesaid petition u/O 39 Rule 7 of C.P.C. filed by the plaintiffs thus disposed of.

To **30.04.2025** for payment of cost by the plaintiffs and issuance of writ.

Ad interim order or injunction extended till 13.06.2025

Dictated & corrected by me

CJ

Civil Judge (Jr.Div.)
Amta, Howrah

