

Title Suit 128/ 2021 (CIS - 128/ 2021)
CNR No. - WBHW 07 000 154 of 2021

Order No.7 dated 21.02.2022

Today is fixed for hearing the application under Order 39 Rule 7 C.P.C. and the application under Section 151 C.P.C. filed by the plaintiffs on 08.02.2022.

Both parties are present.

The instant petition under Order 39 Rule 7 C.P.C. is taken up for hearing first.

Heard the Id. Advocates of the parties at length.

Perused the instant petition.

Considered.

For the proper adjudication of the present suit, the instant petition filed by the plaintiffs is allowed. Let Sri Biplob Dhara be appointed as Id. Advocate commissioner in the present suit. The Id. Advocate Commissioner is directed to carry out the local inspection of the suit properties in terms of the points enumerated in the plaintiff's application u/O 39 R 7 C.P.C. Id. Advocate Commissioner is further directed to serve notice upon the parties prior to holding the inspection work and it is also directed that the Id. Advocate Commissioner shall submit the commission report within fifteen days from the date of completion of the commission work. The remuneration of the Id. Advocate Commissioner is fixed at Rs. 1500/- which is to be borne by the plaintiffs. The plaintiffs are directed to deposit the sum of Rs.1500/- forth with, so that, the writ of commission could be issued to the Id. Advocate Commissioner at the earliest. The plaintiffs are further directed to supply copies of the relevant documents to the Id. Advocate Commissioner in connection with the commission work.

Now the application u/S 151 CPC filed by the plaintiffs concerning the violation of the order of ad-interim injunction passed by this Court on 05.01.2022 is taken up for hearing.

Heard the Id. Advocate of the plaintiffs who submitted that the defendant nos. 1 & 3 are violating the order of ad-interim injunction passed by this Court on 05.01.2022 in the present suit by making construction on the suit property. It has been further submitted by the plaintiffs that the illegal construction being made on the suit property by the said defendants was duly brought to the notice of the officer-in-charge of Amta P.S. but unfortunately no action was taken against them. For this reason, the plaintiffs were compelled to file the instant application and bring the matter of illegal construction to the notice of this Court.

On the other hand the Id. Advocate of defendant nos. 1 & 3 vehemently opposed the present application on the ground that the same has been filed on the basis of false and baseless allegations. Id. Advocate therefore, prayed for rejection of the instant application.

Heard the Id. Advocates of the parties at length.

Perused the instant application.

Considered.

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The claims made under the instant application are quite serious in nature as his forthcoming from the still photographs filed by the plaintiffs. It is also matter of grave concern that even though the officer-in-charge of Amta P.S. was duly informed about the activities of defendant nos. 1 & 3 yet, the said defendants have purportedly been continuing construction activity on the suit property gross violation of the ad-interim order of injunction passed by this Court on 05.01.2022.

Accordingly, the officer-in-charge of Amta P.S. is hereby directed to take immediate steps as per law for ensuring that the sanctity of the ad-interim order of injunction order passed by this Court on 05.01.2022 is maintained at all costs and all kind of construction activity on the suit property is brought to a halt at once. **Be it mentioned here that the direction contained in this order regarding maintenance of the sanctity of the said order of ad-interim injunction shall remain binding on the officer-in-charge of Amta P.S. until the same is modified by this Court in writing vide any further order.** The Officer-in-Charge of 05.01.2022 P.S. is further directed to submit a detailed report in this connection by the date fixed.

Let a copy of this order along with a copy of the order of ad-interim injunction passed on 05.01.2022 along with a copy of the plaint be at once forwarded to the officer-in-charge of Amta P.S. for urgent compliance.

Let a copy of this order be also forwarded to the C.I. of Amta who is called upon to ensure that necessary steps are immediately taken by the officer-in-charge of Amta P.S. in connection with the strict implementation of the ad-interim order of injunction passed by this Court on 05.01.2022.

To 02.03.2022 for report from officer-in-charge of Amta P.S. and to 07.04.2022 for S/R & Appr. of the remaining defendants and hearing of the temporary injunction applicability as well as submission of commission report.

D/C by me

C. J. (Jr. Divn.)
Amta, Howrah
(JO Code WB 01195)

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