

Title Suit - 120 of 2023

Order No. 13 dated 19.02.2025

Today is fixed for hearing of the petition u/Or 39 r 7 CPC dated 26.04.2024.

Plaintiff filed hazira along with a petition for extension of ad interim order of injunction.

Defendant No. 6 filed hazira.

Ld. Advocate for the plaintiff submitted that on 25.04.2023 the defendant No. 6 illegally and forcibly tried to take possession of the suit property by erecting one bamboo fence surrounding some portion of the suit property at his whims. The matter was informed to the local P.S. but all in vain. A restraining injunction order was passed against defendant No. 6 by this Court. 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 raised vehement objection.

On careful perusal of the case record, 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 26.04.2024. 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 05.04.2025 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 **03.03.2025** for payment of cost by the plaintiff and issuance of writ.

Ad interim order of injunction is extended till 05.04.2025.

Dictated & corrected by me

CJ

Civil Judge (Jr.Div.)
Amta, Howrah