

In the Court of Civil Judge (Junior Division), Lalbagh
Present :- Priyanka Shaw

T.S. 53 of 2022

Order No. 17 Dated 12.09.2024

Today is fixed for hearing of the petition dated 22.02.2022 u/o 39, R. 7 of CPC so filed by the Plaintiff.

Plaintiff files a Petition for extension of the Injunction order. Let the order be extended till the next date.

Defendant is represented through his Learned Advocate.

Now the record is taken up for hearing of the petition dated 22.02.2022 for local inspection.

The Learned Advocate for the Plaintiff stated that the present situation of the suit plot is required to be brought before this court and hence he has prayed for local inspection.

Defendant consents to the petition.

Heard. Considered.

Perused the instant petition and all other materials available on record.

From the petition as well as from the submissions of the Learned Lawyers for the both sides, it is quite obvious that the intention of the Plaintiff is very bonafide, and even if any order is passed in favour of them, then that will not cause any prejudice to the other side. Moreover, from the points that need to be inspected, it is clear that the plaintiff's petition is not meant for fishing out of evidence as the same is consented by the defendant. It also demands mentioning that as per Order 39 rule 7 of the Civil Procedure Code 1908, the court is vested with adequate jurisdiction to pass such order which it deems to be necessary. I do not find any substance on record from which it can be said that the said petition is not legally ratified; and now, by means of the local inspection, if the actual condition of the suit property is brought to light before this court, then in that event it will certainly help the Court in deciding the case on merit and hence facilitate the cause of apt and sagacious adjudication of the case itself.

Thus the petition Under Order XXXIX Rule 7 of C.P.C. the Court is of the view that the points mentioned in schedule of the instant petition is liable to be allowed to resolve the matter in dispute at present.

Hence, it is,

ORDERED

That the local inspection petition Under Order XXXIX rule 7 of CPC dated 22.02.2024 filed by the Plaintiff is hereby allowed on consent.

Considering the bonafide nature of the said petition, no cost is imposed upon the Plaintiff.

Let **Shri Pradip Kr. Sinha Ray Learned Advocate of Lalbagh** Bar Association, be appointed as the Advocate Commissioner to carry out the inspection work with reference to the points mentioned in the petition.

The Learned Commissioner is hereby directed to conduct the inspection after giving notice to the parties to this litigation, and carry out the work of inspection with supreme diligence. Plaintiff is directed to submit Rs. 2500/- through P. Cash as fees for conducting the commission work at once, and file a receipt of the same and is further directed to submit necessary papers for issuance of writ to the Commissioner.

The Commissioner's Report shall be filed within 30 days from the date of receipt of Writ.

D.A is directed to issue the writ if and when the above formalities are exhausted by the Plaintiff.

To 10/02/2025 for filing of report by the Ld. advocate commissioner.

D/C by me

Sd-/ Priyanka Shaw

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Civil Judge (Junior Division)
Lalbagh,
Murshidabad

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