

T. S. No. 52 of 2022
CNR : WBSP170002512022

(J.O. Code-WB00823)

Order no. 10 dated 05-01-2023

Today is fixed for hearing of the petition praying to vacate the order no. 07 dated 03.08.2022 fixing the case for ex parte order.

Hd. Both sides. Considered.

Prayer is allowed on consent of both the parties with cost of Rs. 50/-.

Ld lawyer for the plaintiff files hazira along with a petition praying for extension of order of ad interim injunction.

Such prayer is considered and allowed.

Let the order of ad interim injunction is extended till next date.

The application under Order 39 Rule 7 dated 18.05.2022 filed by the defendant no. 1 is taken up for hearing.

Heard the Ld. Advocate on behalf of the defendant no. 1.

Considered.

Perused the plaint and the application under Order 39 Rule 7.

In the said application under Order 39 Rule 7, the defendant no. 1 has prayed for local inspection of this suit property so that the actual picture of the suit property comes before the court and so that the court may arrive at a just and proper decision.

In the application for local inspection, the defendant no. 1 has expressed his intention to bring on record the true picture of the suit property. Having considered the points of local inspection, I am of the view that it would be just and proper to hold local inspection of the property in dispute. At the same time I am of the opinion that the local inspection sort for is necessary for proper adjudication of the dispute between the parties.

Hence, the application under Order 39 Rule 7 of the CPC filed by the defendant no. 1 is allowed.

Ld. Advocate **Rima Giri** be appointed as Commissioner in this case for holding local inspection of the suit property mentioned in the scheduled of the application for local inspection and of the plaint on the points specified in the application for local inspection except for taking any measurement and also the Ld. Advocate Commissioner is refrained from passing any opinion as to if any construction has been newly constructed or not.

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Ld. Advocate Commissioner is directed to go to the locale after due service of notice upon both the parties and to hold local inspection of the property in dispute on the points mentioned in the application for local inspection and thereafter to prepare a report on the points mentioned in the application for local inspection except for the point as noted above and on any points may be shown by the parties to this suit at the time of local inspection.

To **25.01.2023** for submission of Commission report. In case the Ld. Advocate commissioner fails to submit the report he/she will be required to pay back the commission amount.

The plaintiff is directed to pay Rs. 2,000/- to the Commissioner as cost of local inspection at an earliest.

Sd/-

D/C

ACJM-cum-CJSD, Kakdwip

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