

T. S. No. 203 of 2018

Regd. 108/2008

(J.O. Code-WB00823)

Order no. 145 dated 17-02-2023

Today is fixed for hearing of the application dated 24.09.2020 u/o. 26 R. 9 read with section 151 CPC filed by the plaintiff.

Both parties file their respective haziras.

The said application is take up hearing along with the objection filed thereto by the defendant.

The ld advocate on behalf of the plaintiff submits that the plaintiff has filed for this suit for eviction of licensee in respect of plot no. 3 but the defendant has appeared and filed WS and has claimed that the defendant is residing in plot no. 4 and to ascertain to whether the construction made by the defendant is on plot no. 3 or plot no. 4 it is necessary that the suit plot be relayed and surveyed by a survey passed commissioner.

Per contra the ld advocate on behalf of the defendant submits that the defendant had filed WS on 19.02.2015 and after five years of filing of the WS and after completion of evidence of PW 1 and PW 2 the plaintiff has filed this application only for the purpose of fishing out evidence.

Heard both sides.

Considered.

Since this is a suit for eviction of licensee, the plaintiff who is the lincesor is very much aware of the portion of the land which he had given to the defendant on the strength of the license. That apart, since the defendant has claimed title over the suit property on the basis of his title deed this court will determine whether the defendant is a licensee or a co-sharer of the suit property during trial. At the end of trial if suit succeeds and if the decree is put into execution then the plaintiff will have the opportunity to relay and survey the suit property for the purpose of execution of the decree.

At this stage, the application u/o. 26 R. 9 read with section 151 CPC is considered and rejected.

To 02.03.2023 for evidence of DW1.

Sd/- Sushmita Gayen
(Civil Judge, Sr. Divn., Kakdwip)

D/C

Sd/- Sushmita Gayen

(Civil Judge, Sr. Divn., Kakdwip)