

T.S. 142 OF 2022

JO Code: 000823

Reg. 121 of 2022

Order No. 18

Date: 27.06.23

Today is fixed for PH.

The petition dated 25.04.2023 filed by plaintiff praying to take off the record from P. Board is taken up for hearing.

Heard both sides.

Considered.

The prayer is considered and allowed with cost of Rs. 1000/-.

Later:

The application u/o 11 r. 2 & 4 of CPC filed this day by the plaintiff is taken up for hearing.

The Ld. Advocate on behalf of the plaintiff submits that the defendants have stated in their written statement that the suit is bad for non-joinder of necessary parties he therefore prays that the interrogatories be allowed and the defendants be directed to furnish the names of the necessary parties.

The prayer is considered and allowed.

Defendants are directed to furnish the names of the necessary parties.

To 04.07.2023 for reply and cost.

Later:

The another application under Order 39 Rule 7 CPC dated 25.04.2023 filed by the plaintiff is taken up for hearing.

Heard both sides.

Considered.

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

In the said application under Order 39 Rule 7 CPC, the plaintiff 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 plaintiffs 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 plaintiff is allowed.

Ld. Advocate **Ashrita Das** 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 satisfied 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.

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 **27.07.2023** 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. 2,200/- to the Commissioner as cost of local inspection at an earliest.

D/C

Sd/- Sushmita Gayen
ACJM-cum-CJSD, Kakdwip

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