

S/L 2
27.09.2021
Court. No. 7
sb

CO 790 of 2021
(Via Video Conference)

Sk. Saidul
Vs.
Sk. Sahabani

Mr. Arun Kumar Roy

... for the Petitioner

Mrs. Shohini Chakrabarty, Advocate
Ms. Prajaaini Das, Advocate

... for the Opposite Party

Mrs. Chakrabarty, the learned Advocate appears for the opposite party and undertakes to file the vakalatnama in course of this day in the department.

Leave is granted to the learned advocate on record of the petitioner to add the petitioner no. 2 of Misc. Case No. 17 of 2019 as an opposite party no. 2 in the instant application. Let such amendment be carried out here and now.

The petitioner herein has challenged an order being no. 7 dated December 22, 2020 passed by the learned Civil Judge (Junior Division) at Haldia in J. Misc. Case No. 17 of 2019, whereby the petition under Order 39 Rule 7 of the Code filed by the petitioner was rejected. The learned advocate for the petitioner submits that the local inspection is necessary for the purpose of ascertaining as to the existence of a house on the suit property.

Mrs. Chakrabarty, the learned advocate for the opposite party submits that the petitioner has filed the

instant application for local inspection for the purpose of collection of evidence. She further submits that local inspection should not be allowed for the purpose of collection of evidence.

I have heard the learned advocates for the parties and perused the materials on record.

The opposite parties filed J. Misc. Case No. 17 of 2019 praying for preemption under Sections 8 and 9 of the West Bengal Land Reforms Act, 1955. The object behind filing of the application for local inspection is to ascertain whether a complete house is in existence over the suit property as well as the owner thereof which is nothing but collection of evidence as rightly argued by the learned advocate for the opposite party. The existence of a construction, if any, on the suit property has no material bearing in the adjudication of the application for preemption under Section 8 and 9 of the said Act.

Thus, the points on which local inspection was sought, in my view, are not necessary for the purpose of adjudication of the Misc. Case. The learned Trial Judge assigned cogent reasons for rejecting the said application. The impugned order does not suffer from any infirmity warranting interference under Article 227 of the Constitution of India.

CO 790 of 2021 is dismissed without, however, no order as to costs.

(Hiranmay Bhattacharyya, J.)