

Ct. 10.11
No. 2022
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akb

C.O. 489 of 2019

**Tapas Konar
-Versus-
Swati Das & Anr.**

**Mr. Anirban Bose
Mr. Satyajit Senapati
Mr. Siddhartha Chandra** **...For the Petitioner**

Affidavit-of-service filed on behalf of the petitioner in Court today be kept with the record.

Despite service none turn up on behalf of the opposite parties and accordingly this Court proposes to dispose of the instant revisional application ex parte against the opposite parties.

Heard learned Advocate for the petitioner in support of the instant revisional application. Perused the certified copy of the impugned order as well as the photocopy of the application for local inspection as filed under Order 39 Rule 7 of the Code of Civil Procedure before the learned Trial Court by the present opposite parties / defendants.

On conjoint perusal of the petition for local inspection and the certified copy of the impugned order it reveals that by the impugned order learned Trial Court allowed such application for local inspection in respect of the points except point Nos. B and E of the schedule of the said application for local inspection. As rightly pointed out by the learned Advocate for the petitioner/plaintiff that the learned Trial Court ought not to have allowed the point No. D of the Schedule of the application for local inspection,

since point Nos. D and E are practically similar and thus when the learned Trial Court is convinced not to allow the local inspection in respect of the point No. E the said Court ought not to have allowed the local inspection of the point No. D of the schedule of the said application for local inspection.

On perusal of the point Nos. D and E of the schedule of the application for local inspection as filed before the learned Trial Court, it appears to this Court that those two points are more or less similar and therefore the learned Trial Court ought not to have allowed the local inspection in respect of the point No. D of the schedule of the application for local inspection as filed before the learned Trial Court.

In view of such, this Court thus finds sufficient merit in the instant revisional application and the instant revisional application thus deserves to be allowed.

It is thus ordered that the instant revisional application is allowed. The impugned order No. 21 dated 21st January 2019 as passed in Title Suit No. 211 of 2017 by the learned Civil Judge, Junior Division, 2nd Court, at Howrah is modified to the extent as indicated hereinabove.

The learned Trial Court is hereby directed to instruct his dealing assistant to issue writ of commission in favour of the learned Advocate Commissioner in respect of the point Nos. A, C and F of the schedule of the application for local inspection upon usual terms as will be fixed by the learned Trial Court. It is further directed that the proposed

commission shall have to be completed within a period of seven days from the date of communication of this order.

The revisional application is thus disposed of.

Let a copy of this order be forwarded to the learned Trial Court for information and compliance.

Urgent photostat certified copy of this order, if applied for, be given to the parties, on priority basis, upon compliance of all necessary formalities.

(Partha Sarathi Sen, J.)