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sandip
Ct. 18
27.06.2022

C.O. No. 508 of 2018

**Joydeb Saha
Vs.
Sri Brojomohan Saha & Ors.**

Mr. Sudip Ghosh Chowdhury,
Mr. Abhijit Majumder .., For the petitioner.

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

In spite of service none appears on behalf of the
opposite parties on call.

The revisional application under Article 227 of the
Constitution of India is at the instance of the plaintiff
in a suit for declaration and is directed against the
Order No. 38 dated January 17, 2018 passed by the
3rd Court of learned Civil Judge, (Junior Division) at
Serampore, District Hooghly in the said suit being
Title Suit No. 84 of 2013 (Title Suit No. 3224 of 2014).

The learned Trial Judge by the order impugned has
dismissed an application under Order XXXIX Rule 7 of
the Code of Civil Procedure filed by the plaintiff
holding that the proposed commission work was
aimed to collect the evidence.

The plaintiff is alleging that the defendants have
constructed their house without keeping the statutory
space between their house and the house of the
plaintiff. In trial, the plaintiff is required to prove the
said allegation by cogent evidences.

In the event the parties cannot bring adequate evidence to address the said issue appropriately and the Court considers that in order to get a clear picture, inspection of the suit property is necessary, may allow such inspection.

The suit is at the very nascent stage, at this stage prayer of the plaintiff for inspection of the suit property on the points enumerated in the said application, is pre-matured.

The Court, therefore, does not find any reason to interfere with the order impugned.

C.O. 508 of 2018 is disposed of with the above observation without any order as to costs.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)