

02.08.2022
Item No.1
Ct. No.7
CHC
(disposed of)

C.O.1138 of 2022

**Smt. Suchitra Samanta & ors.
Vs.
Sri Bhagirathi Gupta & anr.**

Ms. Kaberi Ghosh (Dey)
...for the petitioners

The order allowing local inspection on the prayer of the defendants/opposite parties is under challenge in this revisional application. By the impugned order dated 11th April, 2022, learned Civil Judge (Junior Division), 4th Court, Serampore, Hooghly, in Title Suit No.183 of 2013, allowed the prayer of local inspection in a suit for declaration and injunction.

Admittedly, petitioners are the plaintiffs enjoying the order of *status quo* granted by the court below in connection with a prayer for injunction.

Learned advocate appearing for the petitioners/plaintiffs submits that the purpose of local inspection is to fish out evidence, and the court below being oblivious of the order of *status quo* granted already in this case, proceeded to grant the local inspection mechanically.

Learned advocate for the petitioners/plaintiffs further contends that no notice was served upon the opposite parties prior to holding the commission work.

Having considered the submission of learned advocate appearing for the petitioners, it appears that the sole challenge, against the prayer for local inspection being allowed, is directed against non service of a notice prior to holding the commission work upon the petitioners.

Upon perusal of the impugned order, it appears that petitioners participated in the hearing process upon filing written objection against the prayer for local inspection, and the order of local inspection was allowed with sufficient knowledge of the petitioners/plaintiffs.

When it is the only contention that local inspection commission has been held without issuing any notice well in advance to the petitioners, the Court is of the view that notice of this application need not be served upon the opposite parties, as no other issue is involved in this case requiring address by this Court.

Service of notice of this application upon the opposite parties stands dispensed with.

The revisional application be disposed of directing the court below that the report of the learned Inspection Commissioner may not be accepted, if not already accepted in the meantime, without granting an opportunity to petitioners to raise objection against the Commissioner's report. The objection, if any raised by the petitioners pertaining to the Commissioner's report

under Order 39 Rule 7 C.P.C., may be resolved giving a hearing for the purpose, in presence of the opposite parties, if needed.

Petitioners are directed to make communication of this order to the learned court below as well as to the opposite parties and their learned advocate in the court below.

With this observation/direction, the revisional application stands disposed of.

Urgent certified photostat copy of this order, if applied for, be given to the parties as expeditiously as possible on compliance of all necessary formalities.

(Subhasis Dasgupta, J.)