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C.O. 1350 of 2022

**Sri Mantu Dutta
Vs
Sri Madhusudan Pal & Ors**

Mr. Tapas Mukherjee,
... For the petitioner.

Mr. Pinaki Ranjan Mitra, ... For the opposite parties.

The subject matter of challenge in this case is against an order allowing local investigation ex parte.

Mr. Tapas Mukherjee, learned advocate appearing for the petitioner submits that an opportunity of hearing ought to have been given before granting local investigation and the point sought to be investigated are not at all necessary to unfold the controversy raised in the pleadings.

Adverting to the impugned order, Mr. Mukherjee further submits that since the commission work was allowed to be held in absence of the other side, the report of the commission will certainly prejudice the valuable rights of the petitioner/defendant.

Mr. Pinaki Ranjan Mitra, learned advocate for the opposite parties replies that in the meantime commission work has already been concluded and the investigation commission has already submitted his report.

Supporting the order of the Court below, Mr.

Mitra submits that without the order of investigation, there may not be any effective adjudication in respect of the points raised in the pending litigation.

Having considered the submission of both sides, it appears that investigation commission being allowed ex parte is the bone of contention between the parties.

Admittedly, the commission report has not been accepted by the Court below. When report has not yet been accepted by the Court below, though commission work has already been completed, this Court is of the view that the contention raised by the petitioner, may be adequately redressed, directing the petitioner to file an objection adhering to the provision available under Order 26 Rule 10 (2) of the CPC, disclosing the points of objection therein.

There is no scope of further elaboration, when remedies are available very much under Order 26 Rule 10 CPC.

The report, if submitted, may not be accepted without resolving the objection raised by the petitioner, if necessary, upon examining the Ld Investigation commissioner for the lawful acceptance of the commissioner's report.

It is, however, clarified that such exercise may be completed within four months from the date of communication of the order to the Court below.

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

Urgent photostat certified copy of the order, if applied for, be given to the parties on usual undertakings.

(Subhasis Dasgupta, J)