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C.O. 1631 of 2022

**Smt. Puspa Dutta & Ors
Vs
Sri Goutam Pakhira & Ors**

Mr. Asok Kumar Janah,
Ms. Pampa Dey (Dhabal), ... For the petitioners.

Mr. R. Mahato,
Mr. A. S. Roy,
... For the opposite parties.

The subject matter of challenge in this revisional application is against the impugned order, dated 13th May, 2022 passed by learned Civil Judge (Junior Division), First Court, Paschim Medinipur allowing the application for local inspection under Order 39 Rule 7 of the CPC.

The supplementary affidavit furnished by Mr. Asok Kumar Janah, learned advocate appearing for the petitioners be taken on records.

The copy of the supplementary affidavit has also been served upon the opposite parties.

Mr. Janah at the very threshold of this case challenges the maintainability of suit together with the merits of suit in respect of pending litigation.

Mr. Janah further contends that opposite parties/plaintiffs seek to make construction on the subject land, which is vested one and further no notice was served upon the Government bodies under Section 80 of the CPC for making institution of the suit.

It is also contended by Mr. Janah that the

purpose of the local inspection commission is to fish out the evidence, which is not permissible under the provisions of law.

Mr. R. Mahato, learned advocate appearing for the opposite parties disputes with the submission of Mr. Janah alleging that maintainability of the suit together with the points raised, may not be addressed in this case, which is purely against a local inspection being allowed by the Court below. More so, the purpose of local inspection is to reveal the present condition of suit property and nothing else, learned advocate appearing for the opposite parties replies.

The issue involved in this case is whether the Court below has rightly allowed the local inspection for the grounds set out in the impugned order or not. Though it is alleged by Mr. Janah that the entire endeavour of the opposite parties/plaintiffs is to fish out evidence, but merely by holding local inspection, there is hardly any chance of creating any evidence favourable to the proposed relief, sought to be obtained by the opposite parties/plaintiffs in the suit.

As per submission disclosed by both the parties, it appears that the commission work has not yet been concluded.

Regarding the maintainability of suit and question of law, as raised by Mr. Janah, petitioners may take recourse to the provisions of law touching upon the

maintainability of the suit together with the merits, if there be any.

When local inspection commission has not yet been concluded, this Court is of the view that the local inspection commission may be concluded expeditiously upon notice to the other side, as per order of the Court below.

However, the report may not be accepted by the Court below, without providing an opportunity of hearing to the petitioners to raise objection against such report. If any objection is raised against the report of the local inspection commission, that shall be addressed by the Court below giving a hearing for the purpose to both sides without granting unnecessary adjournments, unless it is extremely unavoidable.

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)