

08.12.2022
Item No.6
Ct. No.7
CHC
(disposed of)

C.O.2153 of 2022

Sandhya Chowdhury & ors.
Vs.
Sri Bishnu @ Bishnu Sarkar & ors.

Mr. Dibyajyoti Raha
...for the petitioners

Mr. Pappu Adhikari,
Mr. Samir Halder
...for the opposite parties

This revisional application is against the order dated 1st July, 2022, passed by learned Civil Judge (Junior Division), Bongaon, North 24 Parganas, in Title Suit No.56 of 2018, allowing local inspection under Order 39 Rule 7 C.P.C..

Mr. Raha, learned advocate appearing for the petitioners submits that when there has been granted ad interim order of injunction recording satisfaction of the court below with regard to the *prima facie* case together with possession of the suit property by the petitioners, there is no justification of holding local inspection, merely on the prayer of the defendants, which is basically intended to fish out evidence.

Mr. Pappu Adhikari, learned advocate appearing for the opposite parties disputes with the submission raised by Mr. Raha replying to the effect that while granting ad interim injunction, the report submitted by the BL & LRO disclosing possession of the suit

property could not be placed before the court below, and as a result of which, there has been no adequate consideration of the materials, required to be placed, while granting ad interim injunction.

The purpose of the local inspection, according to the opposite parties is to reveal the true picture and the exact status of the suit property, and nothing else.

Having considered the submission of both sides, it appears that commission work has already been concluded, and that has been held behind the back of the petitioners, though notice has been issued by the Commissioner for the purpose, but there is nothing suggestive to show that the petitioners made their participation at the time of holding local inspection commission. In a situation like this, there is no further scope of elaboration on the point.

The revisional application stands disposed of directing the court below not to accept the report of the Commission, without affording an opportunity of hearing to the plaintiffs/petitioners.

The petitioners are given liberty to raise objection upon filing a petition, if not already filed, supplying a copy well in advance to the opposite parties, so that the matter may be resolved in accordance with law within six weeks from the date of communication of this order.

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

Parties are directed to make communication of this order to the court below.

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.)