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C.O. 2291 of 2022

**Rajendra Kumar & Anr.
Vs
Sushma Yadav**

Ms. Susmita Dey (Basu) ... For the petitioners.

Mr. Malay Bhattacharya, ... for the opposite party.

The subject matter of challenge in this case is against the rejection of prayer for local inspection.

Ms. Susmita Dey (Basu), learned advocate appearing for the petitioners/plaintiffs submits that business of the plaintiffs has suffered a set blow for the alleged interference caused by the opposite party/defendant in the conduct of business of petitioners, even after an order of ad interim injunction granted on 15th December, 2020.

It is submitted by the learned advocate for the petitioners that opposite party/defendant has put a padlock by closing down the rolling shutter in the business place, run by the petitioners/plaintiffs.

According to petitioners, the entire purpose of local inspection is to reveal the true topography of the subject property and nothing else.

Mr. Malay Bhattacharya, learned advocate appearing for the opposite party/defendant denies the allegations raised by the petitioners regarding the alleged putting of padlock on the rolling shutter gate of

alleged business place of petitioners/plaintiffs.

Incidentally, it is submitted by the opposite party that injunction application is pending and in the event of final hearing of injunction application, the entire controversy presented before the Court below may be streamlined.

It is also submitted that the plaintiffs/petitioners have endeavoured to obtain the main relief, even at the interlocutory stage, but the same cannot be granted, without a full-fledged trial, Mr. Bhattacharya argues.

Having considered the submission of both sides, it appears that the alleged business of the petitioners is said to have been closed down at the instance of the opposite party, upon putting a padlock. Such alleged conduct of the defendant is said to have been done, even after an order of ad interim injunction passed on 15th December, 2020.

Since the purpose of proposed local inspection is to reveal the real picture and the topography of the subject property, there may not be any prejudice caused to the opposite party in the event of local inspection being allowed to be held.

The revisional application stands disposed of upon setting aside the impugned order, with a direction upon the Court below to appoint local inspection commissioner within fortnight after reopening of Winter Vacation of the Court below, subject to the payment of

cost of inspection, to be suitably decided by the Court below, as would be deemed proper and fit in accordance with law.

The local inspection may be held upon notice to the opposite party, and report of the commissioner may be accepted in presence of both the parties.

The entire exercise pertaining to the local inspection commission may be concluded before the second week of February, 2023.

As the opposite party has filed objection against the injunction application, the application for temporary injunction under Order 39 Rules 1 and 2 C.P.C. may be disposed of expeditiously without granting unnecessary adjournment, 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)