

(12)  
30.11.2023  
(p.jana)

**IN THE HIGH COURT AT CALCUTTA**  
**CIVIL REVISIONAL JURISDICTION**

**CO No. 358 of 2023**

**Sri Balaram Sardars & ors.**

**-versus-**

**Sri Gobardhan Sardar & ors.**

Mr. Tanmoy Mukherjee,  
Mr. Souvik Das,  
Mr. K.R. Ahmed,  
Mr. Rudranil Das,

... for the petitioners

Mr. S.P. Tewary,  
Mr. Avijit Tewary,

...for the opposite party nos. 1, 2 & 4.

Affidavit of service filed on behalf of the  
petitioners be kept with the record.

The revisional application under Article 227 of  
the Constitution of India is at the instance of some  
of the defendants [defendant nos. 1, 2, 4, 7(Ka) to  
7(Cha), 8 and 9] in a suit for declaration and  
permanent injunction and is directed against the  
order no. 84 dated January 6, 2023 passed by the  
1<sup>st</sup> Additional Court of learned Civil Judge (Junior  
Division), Contai, District: Purba Medinipur in the  
said suit being Title Suit No. 93 of 2015.

The petitioners prayed for appointment of  
Advocate Commissioner to hold local inspection of  
the suit pond. The learned Trial Judge by the order  
impugned has dismissed the said application on  
the ground of delay.

It transpires from the record that the prayer of the plaintiffs for appointment of such Commissioner was once allowed but the Commissioner appointed to hold inspection of the suit pond died before his report was proved in the suit.

Mr. Mukherjee, learned counsel for the petitioners, submits that to demonstrate before the Court that the suit pond is divided into two parts by a "Bandh", the defendants are praying such local inspection.

The plaintiffs' application for local inspection of the suit pond was allowed as the Court felt such inspection is necessary for the proper adjudication of the suit but unfortunately, the said inspection could not derive any benefit for the death of the Commissioner.

Similar exercise therefore needs to be carried out but by a fresh Advocate Commissioner to be appointed by the Court.

The following are the points of inspection on the earlier application of the plaintiffs:-

- "1) To draw and submit the Hand Sketch map of Ka suit land according to the present positions;
- 2) To note and report about the present character of the Ka suit land;
- 3) To note and report about the trees, bank of the tank of the Ka suit land;

- 4) To note and report about other important local features which will be seen or shown at the time of local inspection at the locality”.

It is sufficiently clear that inspection on the fourth point shall take care of the requirement of the defendants as submitted by Mr. Mukherjee.

The learned Trial Judge therefore is requested to appoint a fresh Advocate Commissioner to hold local inspection of the suit pond on the points indicated above.

The costs of such commission work this time shall be borne by the defendants to be put in within two weeks from date.

CO No. 358 of 2023 is thus disposed of with the above terms without any order as to costs.

Parties to act on the server copy of this order duly downloaded from the official website of this Court.

Urgent certified photostat copies of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

**(Biswajit Basu, J.)**