

10.05.2023
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Sanjay
Ct.237

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL APPLICATION
APPELALTE SIDE

C.O. 363 of 2023

Abhinandan Banerjee & Anr.

Vs.

Abhiruk Banerjee & Ors.

Mr. Debdipto Banerjee,
Mr. Soumen Banerjee ... for the petitioners.

Mr. Alok Kr. Ghosh,
Ms. Sima Chakraborty for the KMC/O.P. No.6.

Mr. Siddhartha Banerjee,
Mr. Abhisek Baran Das,
Ms. Srijani Chongdar,
Mr. Jyoti Rauth,
Mr. Mainak Chandra ... for opposite party nos.1 to 5

This revisional application has been filed challenging the order no.09 dated 18th November, 2022 whereby the Learned Civil Judge (Junior Division), 4th Court at Alipore allowed one application under Order XXXIX Rule 7 of the Code of Civil Procedure, 1908 and the order dated 2nd December, 2022 whereby the Learned Judge disallowed the prayer for recalling the order dated 18th November, 2022 and also the order dated 14th December, 2022 whereby the learned Judge disallowed the prayer of the petitioner under Section 151 of the Code

of Civil Procedure for modification of the order dated 18th November, 2022.

Having heard learned Advocates of the parties and after going through the materials on record, particularly the order dated 18th November, 2022 as well as para 11 of the instant revisional application I find that the petitioner/plaintiff is not against the commission work under Order XXXIX Rule 7 of the CPC save and except the point no.2 and 6 of the schedule of points for commission attached to the application under Order XXXIX Rule 7 read with Section 151 of the CPC.

After careful perusal of the entire application under Order XXXIX Rule 7 of the CPC along with schedule of points for commission, I do not find any reason to interfere with the order dated 18th November, 2022.

Learned Advocate appearing for the petitioner / plaintiff has submitted that necessary opportunity may be given to the plaintiff to point out the relevant local features at the time of commission work.

In the aforesaid view of the matter, I do not find any reason to interfere with the orders assailed in this revisional application. In this regard, I make it clear that at the time of commission work, learned Commissioner shall give an opportunity to the plaintiff to point out relevant local features.

With the aforesaid observation, the instant revisional application stands disposed of.

All parties shall act on the server copies of this order duly downloaded from the official website of this Hon'ble Court.

(Bibhas Ranjan De, J.)