

12.12.2023
Court No. 19
Item no.12
CP

C.O. No. 3764 of 2022
Sri Jaydeep Sengupta
Vs.
Rupali Sengupta & Anr.

Mr. Saumyen Datta
Ms. Dolon Dasgupta

.....for the petitioner.

On various occasions, the learned advocate for the opposite parties appeared before the court but prayed for adjournments. One last chance was given to the opposite parties to appear before the court on December 12, 2023. Today again, the matter has been called on twice, but none appears on behalf of the opposite parties. It appears that the opposite parties have lost interest in the matter.

The petitioner is the defendant no. 1 in Title Suit No. 425 of 2022 which is pending before the learned Civil Judge (Junior Division), 3rd Court, Asansol, Paschim Bardhaman. The petitioner is aggrieved by the order dated November 30, 2022. The application for local inspection was allowed on the following points namely:-

- a) To see and note the present nature of the suit schedule property.
- b) To see whether the suit property is a vacant land or land with structure/building.

d) To see whether the defendants made any interference in the suit property.

e) To see other local feature/features attached with the suit property.

The Point No. 'c', ie, whether the plaintiff was having possession over the suit property was negated by the learned court. It is urged before this court that Point No. 'd' as to whether the defendants were creating any interference in the suit property, amounted to fishing out of evidence as the plaintiff's case was that the defendants were interfering with their rightful possession of their property. Hence, the suit for declaration and permanent injunction was filed.

In my opinion, allowing the said point would actually amount to fishing out of evidence. It is for the plaintiff to prove his case of absolute ownership in respect of the land in question and that the defendants were interfering with the property of the plaintiff.

Thus, in my opinion Point No. 'd' above, cannot be allowed for local inspection.

The Point Nos. 'a', 'b' and 'e' are allowed.

The revisional application is accordingly disposed of.

There shall be no order as to costs.

Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)