

26.02.2024
Item No.36
Ct. No. 7
KS

C.O. 3456 of 2023
Biomed Diagnostics represented by its proprietor Anil
Kumar Samanta
Vs.
M/S Jai Maa Tara Udyog LLP & Ors.

Mr. Alope Chatterjee
Mr. Partha Chakraborty
Mr. Muhammad Obaid

.....for the Petitioner

Mr. Samik Sarkar

.....for the opposite party

1. The order no.11 dated 17th May, 2023 passed by the learned Civil Judge (Junior Division), 1st Court at Basirhat in Title Suit No.193 of 2022 is under challenge in this civil order.
2. By the order impugned, the application for local inspection was allowed.
3. Upon going through the points for local inspection, this Court finds that the prayer for appointment of a Commissioner was made to ascertain as to the possession of the parties in the suit property and whether any business is carried on therefrom.
4. It is well-settled that the issue with regard to the possession has to be decided by the Court and the same cannot be delegated to the Commissioner. The

petitioner is trying to fish out evidence by way of local inspection which is not permissible.

5. For such reason, this Court is inclined to interfere with the order impugned. The order impugned accordingly stands set aside.
6. Accordingly, C.O. 3456 of 2023 stands allowed.
7. There shall be, however, no order as to costs.
8. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(Hiranmay Bhattacharyya, J.)