

03.04.2024
Item No.28
RP
Ct. No.7

CO 3509 of 2023
Smt. Sarswati Gupta @ Saraswati Devi & Anr.
Vs.
Dr. (Mrs.) Agnidipa Das & Ors.

Mr. Debabrata Ganguly
Ms. Sudeshna Basu Thakur
.... For the petitioners
Mr. Srijib Chakraborty
Mr. Aditya Mondal
.... For Opposite Party

1. The certified copy of the order no.3 dated 13th September, 2023 passed by the learned Civil Judge (Junior Division), 1st Court, Sealdah in Title Suit No.320 of 2023 filed by the learned advocate for the petitioner in Court today is taken on record.
2. The defendants have filed this application under Article 227 of the Constitution of India challenging the order no.3 dated 13th September, 2023 passed by the learned Civil Judge (Junior Division), 1st Court, Sealdah in Title Suit No.320 of 2023. By the order impugned the application under Order 39 Rule 7 of the Civil Procedure Code filed by the defendants stood rejected.
3. The opposite party no.1 herein filed a suit for declaration that the B schedule property is the common passage and the defendants have no right to make any construction in the C schedule

property by encroaching any portion of the B schedule property. In the said suit the defendants have filed an application under Order 39 Rule 7 of the Civil Procedure code.

4. Heard the learned advocates for the parties.
5. After going through the points of local inspection this Court finds that the said inspection is not necessary for the purpose of deciding the disputes between the parties in the suit. The application was filed with an object of fishing out evidence which is not permissible in law.
6. For the reasons as aforesaid, this Court is of the considered view that the learned trial Judge was right in rejecting the application for local inspection. Hence, the impugned order does not call for any interference. CO 3509 of 2023 stands dismissed. There shall, however, no order as to costs.

(HIRANMAY BHATTACHARYYA, J.)