

D/L- 5
16/04/2025
Ct. No.-6
Aritra

C.O. 1122 of 2025

**Steel Authority of India Limited-ISP
Vs.
Smt. Tripti Rani Pal**

Mr. Arijit Basu

...for the petitioner

This application under Article 227 of the Constitution of India is at the instance of the defendants and is directed against an order being No.61 dated May 16, 2024 passed by the learned Civil Judge (Jr. Div.), 2nd Court at Asansol in Title Suit No.7 of 2017. By the order impugned the application under Order 26 Rule 10A read with Section 151 of the Code of Civil Procedure was allowed and both the parties were directed to provide the name/names of an expert (Scientific investigation commissioner) who may be appointed in the suit as scientific investigation commissioner.

The learned advocate appearing for the petitioner submits that the petitioner raised an objection against the maintainability of the suit. Such issue has not yet been decided and the learned Trial Judge by an unreasoned order has allowed the application under Order 26 Rule 10A of the Code of Civil Procedure.

After going through the plaint of the suit this Court finds that it has been alleged by the plaintiff/opposite party herein that there is a weigh bridge just beside the

suit property where 40 to 60 trucks, dumpers, etc. enter and exit daily for weighing and the digging of the earth by using heavy machine is causing huge vibration resulting in noise pollution, air pollution and nuisance. The opposite party has prayed for a decree declaring that the defendants are bound to obey the rules and regulation for blasting the mines within a short distance from the suit property for collecting/lifting coal and digging huge amount of earth and soil causing huge hole.

After going through the averments made in the plaint of the instant suit and the points on which the application under Order 26 Rule 10A of the Code of Civil Procedure has been filed, this Court is of the considered view that appointment of scientific investigation commissioner is necessary for an effective adjudication of the disputes between the parties in the instant suit.

This Court holds that the learned Trial Judge was right in allowing the prayer for scientific investigation.

In view thereof, this Court is not inclined to interfere with the order impugned.

Accordingly, CO 1122 of 2025 stands dismissed.

In course of argument the learned advocate for the petitioner produced a certified copy of the plaint. The said learned advocate is directed to file a photocopy of the plaint in course of this day.

There will be no order as to costs.

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

(Hiranmay Bhattacharyya, J.)