

16.05.2025
Court No.237
Item No.6
(AD)

CO 2602 of 2022

Smt. Sikharani Das
vs
Sri Prem Kumar Das and Ors.

...

Mr. Tanmoy Mukherjee, Advocate
Mr. Souvik Das, Advocate
Mr. K.R. Ahmed, Advocate
Mr. Tapas Chatterjee, Advocate
... ... For the petitioner

1. None appears for the opposite parties despite service.
2. Petitioner is represented.
3. Petitioner is aggrieved by an order dated July 12, 2022 by which an application under Order 39 Rule 7 of the Code of Civil Procedure filed on behalf of the plaintiff in the original Title Suit No.261 of 2022 pending before the learned Civil Judge (Senior Division), 1st Court at Contai.
4. By the impugned order, learned Trial Court proceeded to take into consideration the allegations made on behalf of the plaintiff in the suit that the defendants were trying to change the nature and character of the suit properties to disturb the peaceful possession of the plaintiff thereon.
5. It is submitted by the learned Advocate appearing for the petitioner that the defendant/petitioner was

not provided with an opportunity of being heard before allowing such prayer by the learned Trial Court. The impugned order also discloses that such application was allowed by the learned Trial Court *ex parte* without hearing the defendants in the Title Suit. Such order of learned Trial Court was initially stayed by an order passed by this Court on August 30, 2022.

6. Since it is apparent from the impugned order itself that the order was passed without hearing the petitioner/defendant directing a local inspection and since the opposite party in the present proceeding has not been appearing in spite of service, it would be appropriate that the impugned order dated July 12, 2022 so far as it relates to the direction with regard to the local inspection in pursuance of an application under Order 39 Rule 7 of the Code of Civil Procedure filed at the behest of the plaintiff is concerned is hereby set aside.
7. **CO 2602 of 2022** is **disposed of** accordingly without any order as to costs.

(Md. Shabbar Rashidi, J.)