

14.01.2026
Piya
ct no. 30
sl. 26

CO 1746 of 2023

Basudev Bhowmick & Ors.

Vs.

Swadesh Ranjan Das & Ors.

Mr. Sukumar Ghosh

Ms. Moumita Ghosh

.....For the Petitioners

Mr. Soumen Pradhan

.... For the Opposite Parties

1. The revisional application has been preferred against an order No. 46 dated 20.03.2023 passed by learned Civil Judge (Junior Division), 1st Court, Tamruk, Purba Medinipur in Title Suit No. 78 of 2018.
2. Vide the order under challenge the learned Trial Court has rejected the defendants/petitioners application under Order 39 Rule 7 CPC on the following findings:-

“..... On perusal of case record, instant petition and submission of Ld. Counsel of both parties, it appears that the defendants are praying for appointment of Ld. Advocate Commissioner to conduct local inspection of the suit property. It further appears that local inspection of the schedule suit property has already been completed and its report has been filed by the appointed Ld. Advocate Commissioner before this Court. Furthermore, the contesting defendants have filed their written objection against the said local inspection report of the Ld. Advocate Commissioner. Thereafter, the contesting defendants have filed this instant inspection petition and from the schedule of

instant inspection petition it appears that the contesting defendants have prayed for inspection of suit plot on the same points as mentioned in the earlier inspection petition of this suit. As, the local inspection of suit plot has already been done on the same points, thus there is no necessity of further local inspection. The contesting defendants would get opportunity to prove their case at the stage of trial and argument against the report of local inspection dated 11.11.2021.

So, from above discussion I am of the view that no new points for inspection of suit property has been established by contesting defendants. Some points of inspection are already inspected by Ld. Advocate Commissioner in this suit, so again conducting inspection on same point is nothing but repetition and it would cause unnecessary delay in the proceedings of this suit. However, from the material of case record it could be seen that the local inspection of suit property has already be done and again inspection of suit property could only be done if contesting defendants satisfy the Court with urgency on new points upon which inspection has not yet done and as per the provision of Order 39 Rule 7 of CPC. Therefore, from the above discussion I am not inclined to allow the prayer of local inspection of suit property.....”

- 3.** It is the case of the petitioners herein after the local inspection was completed. There has been subsequent developments and the plaintiffs/opposite parties have changed the nature and character of the suit property and as such a further inspection on similar points have been prayed for to bring the alleged change of nature and character of the suit property on record.
- 4.** It is further stated that if the same is not allowed, the defendants/petitioners shall suffer irreparable loss

and injury considering that the same is very necessary for proper adjudication of the case.

5. On hearing the parties, considering the submissions made and the materials on record, this Court is of the view that the petitioners case herein has substance and accordingly the impugned order dated 20.03.2023 passed by learned Civil Judge (Junior Division), 1st Court, Tamluk, Purba Medinipur, **is hereby set aside.**
6. The application Order 39 Rule 7 CPC filed by the defendants/petitioners is hereby allowed.
7. A local commissioner be appointed by the Trial Court who shall on payment of requisite fees shall inspect the premises on the points as mentioned in the application in presence of both the parties upon proper notice.
8. The whole process of inspection and filling of report by the local commissioner be completed within 60 (sixty) days from the date of communication this order. On filing of the said report, the trial Court to proceed with the suit expeditiously.
9. **CO 1746 of 2023 is accordingly disposed of.**
10. Applications, if any, connected thereto stand disposed of consequently.
11. Interim order, if any, stands vacated.

- 12.** Photostat certified copy of this order, if applied for, be given to the parties on priority basis upon compliance of all formalities.

(Shampa Dutt (Paul), J.)