



**HIGH COURT OF TRIPURA
AGARTALA**

CRP No.58 of 2025

1. Shri Sunil Chandra Saha, S/O Late Radhika Mohan Saha, Resident of Kalitila, PS and Sub Division - Teliamura, District - Khowai, Tripura
2. Shri Dharendra Ch. Das, S/O Lt. Monmohan Das, Resident of Kalitila, PS and Sub-Division - Teliamura, District - Khowai, Tripura

.....Petitioner(s);

Versus

1. Shri Satya Ranjan Saha, S/O Late Aswani Kumar Saha, Resident of Dashamighat, PS - Teliamura, District - Khowai, Tripura
2. Shri Dilip Saha, S/O Late Aswini Kumar Saha, Resident of Netajinagar, PS - Teliamura, Dist - Khowai, Tripura
3. (a) Shri Sankar Roy, S/O Late Nityananda Roy, Resident of Dashamighat, PS - Teliamura, Dist - Khowai, Tripura
3. (b) Shri Samir Roy, S/O Late Nityananda Roy, Resident of Dashamighat, PS - Teliamura, Dist - Khowai, Tripura
3. (c) Smt Mani Roy, D/O Late Nityananda Roy, Resident of Dashamighat, PS - Teliamura, Dist - Khowai, Tripura
3. (d) Smt Sarmila Roy, D/O Late Nityananda Roy, Resident of Dashamighat, PS - Teliamura, Dist - Khowai, Tripura
3. (e) Smt Manti Roy, D/O Late Nityananda Roy, Resident of Dashamighat, PS - Teliamura, Dist - Khowai, Tripura
4. Smt Chinu Rani Roy, W/O Late Dhananjoy Roy, D/O Late Aswini Kumar Saha, Resident of Netajinagar, PS - Teliamura, Dist - Khowai, Tripura
5. Smt Laxmi Rani Saha, W/O Shri Subhash Saha, D/O Late Aswini Kumar Saha, Resident of Dalubari, PS - Ambassa, Dist - Dhalai, Tripura
6. (a) Sri Pankaj Saha, S/O Sri Pradip Saha, Resident of Dalubari Gate, PS - Ambassa, Dist - Dhalai, Tripura
6. (b) Smt Bulti Saha, D/O Sri Pradip Saha, Resident of Dalubari Gate, PS - Ambassa, Dist - Dhalai, Tripura

.....Respondent(s)

For Petitioner(s) : Mr. Sudipta Sekhar Debnath, Advocate.

For Respondent(s) : Mr. Sankar Lodh, Advocate.



HON'BLE THE CHIEF JUSTICE MR. M.S. RAMACHANDRA RAO

Order

08/05/2026

This Revision is filed challenging the order dt.27.03.2025 of the Additional District Judge, Khowai District in an application filed under Order XXVI Rule 9 CPC filed in TA 01 of 2022 at the instance of the petitioners.

2. The petitioners, who are the defendants in the suit, had filed the said application praying for appointment of a Survey Commissioner for local investigation on the ground that the plot numbers mentioned in the schedule of the plaint, do not tally with the boundary given in such plaint, and that the same are not in existence.

3. The respondents opposed the said application contending that the suit had been filed for declaration of title and recovery of possession, and appointment of a Survey Commissioner is not warranted.

4. After hearing both sides, the said application was dismissed on 27.03.2025 by the Appellate Court stating that though under Order XXVI Rule 9 CPC, a Commissioner can be appointed for local investigation, and the primary purpose of appointing a Survey Commissioner is to obtain evidence that can only be gathered on the site, but it is not permissible to appoint a Survey Commissioner as a substitute for collecting evidence which has to be presented in the Court. It held that local investigation aims to clarify points that remained uncertain based on the evidence already presented.

5. Challenging the same, this Revision is filed.

6. Though counsel for petitioners sought to contend that the order passed by the Additional District Judge, warrants interference in exercise of



power conferred on this Court under Art.227 of the Constitution of India, I do not agree with the said submission.

7. As rightly held by the Additional District Judge, the primary purpose of appointing a Survey Commissioner is to obtain evidence that can only be gathered on the site. Survey Commissioner cannot be appointed to collect evidence that could be presented in the Court.

8. Admittedly, no official of the Revenue Department has been examined to establish the contentions of the defendants in the Trial Court, and the lacuna in the evidence of the defendants cannot be sought to be filled up at the appellate stage in the manner sought to be done by the petitioners.

9. Therefore, I am not inclined to interfere with the order passed by the Additional District Judge refusing to allow the application under Order XXVI Rule 9 CPC filed by the petitioners.

10. Accordingly the Revision fails, and is dismissed.

11. Pending application(s), if any, shall stand disposed of.

(M.S. RAMACHANDRA RAO, CJ)

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