

D/L- 18
18/08/2026
Ct. No.- 6
Aritra

C.O. 2706 of 2026

Ram Lal Das & Ors.

Vs.

Rudra Narayan Das & Ors.

Mr. Pratip Kumar Chatterjee
Ms. Maitrayee Chatterjee

....for the petitioners

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.71 dated June 5, 2026 passed by the learned Civil Judge (Jr. Div.), 2nd Court at Kandi, District-Murshidabad in Title Suit No.92 of 2021.

By the order impugned the objection filed by the petitioner against the advocate Commissioner's report was rejected.

Mr. Chatterjee, learned advocate appearing for the petitioners submits that the Commissioner did not check and verify the fixed points and, therefore, the commission work cannot be said to be done in accordance with the principles of survey. He further submits that the Commissioner also did not sign the report and, therefore, the same could not have been accepted.

Order XXVI Rule 10(2) of the Code of Civil Procedure states that the report of the Commissioner and the evidence taken by him but not the evidence without the report shall be evidence in the suit and shall form part of the record, but the Court or, with the permission of the Court, any of the parties to suit may examine the Commissioner personally in open Court touching any part

of the matters referred to him or mentioned in his report, or as to his report, or as to the manner in which he has made the investigation.

In the case on hand the petitioners filed an objection to the said report and has also cross-examined the Commissioner.

After going through the Commissioner's report this Court finds that the Commissioner selected the fixed points and in the cross-examination he has clarified with regard to selection of the fixed points. The Commissioner has also clarified that he has conducted the survey by compass method. In view of the provisions contained in Order XXVI Rule 10(2) of the Code of Civil Procedure, this Court is of the considered view that the learned trial judge was right in accepting the said report and marking the same as an exhibit.

The learned trial judge has assigned cogent reasons for allowing the Commissioner to authenticate his report by putting his signature thereon as field-book bears his signature and during the evidence, the Commissioner has acknowledged his report and it was also not disputed by the parties that the report has not been prepared by the Commissioner.

The learned trial judge assigned cogent reasons for accepting the Commissioner report, this Court does not find any infirmity in the order impugned warranting interference under Article 227 of the Constitution of India.

Accordingly, CO 2706 of 2026 stands disposed of.

There will be no order as to costs.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Hiranmay Bhattacharyya, J.)