

21-01-2020
Court No.3
(AJ/SK)
SI/07.

**CIRCUIT BENCH OF
CALCUTTA HIGH COURT
AT JALPAIGURI
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE**

C.O. 13 OF 2020

**Sri Subal Barman & Ors.
Vs.
Sri Soudip Ghosh & Ors.**

Mr. Nripen Das,
Mr. Debanjan Das.
. . .For the Petitioners.

The petitioners have suffered the decree of declaration of title and permanent injunction.

The said decree has been put into execution giving rise to connected Title Execution case No. 01 of 2012 pending before the learned Civil Judge (Senior Division) at Jalpaiguri.

In the said execution case the petitioners have filed an application under Section 47 of the Code of Civil Procedure praying dismissal of the said execution case on the following grounds :-

- "1. the decree is not executable as there is question in respect of identity of the suit plot;*
- 2. the decree can not be executed in the suit plot without demarcating it by metes and bounds;*
- 3. there is no plot within the boundary as specified by the decree holder;*
- 4. judgment debtors are possessing land comprised in Plot Nos. 327 and 330 after such*

land was consigned in their favour by R.R. Department issuing patta with a specific boundary;

5. boundaries of decree holders land and judgment debtors land are completely different;

6. decree is not binding upon the judgments debtors/petitioners.”

The learned executing Court by the order impugned being Order No. 14 dated September 21, 2019 has dismissed the said application holding that none of the aforementioned grounds are coming within the purview of execution, discharge or satisfaction of the decree under execution so as to attract the provisions of Section 47 of the Code.

This Court does not find any illegality and/or infirmity in the said finding of the learned Trial Judge warranting interference in the order impugned.

C.O. 13 of 2020 is dismissed.

No order as to costs.

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

(Biswajit Basu, J.)