

S/L 13
29.01.2021
Court. No. 19
GB

C.O. 172 of 2021

Smt. Swapna Singha
Vs.
Sri Amulya Das & Ors.

(Through Video Conference)

Mr. Partha Pratim Roy.

...for the Petitioner.

This revisional application is directed against an order dated December 16, 2020, passed by the learned Civil Judge (Junior Division), 1st Court at Tamruk, District Purba Medinipur in Title Suit No.226 of 2018.

The petitioner is aggrieved because the application for local inspection filed by the petitioner under Order 39, Rule 7 of the Code of Civil Procedure was rejected. According to the petitioner it is an admitted fact that there is a boundary dispute and the said inspection was necessary.

The petitioner refers to the relevant paragraphs of the written statement filed by the defendant in support of his contention. The learned court below upon considering the points for local inspection came to the conclusion that the plaintiff was trying to collect evidence by way of local inspection. The circumstances in this case did not warrant allowing the application of the petitioner on the ground that the points for inspection were not relevant for the adjudication of the dispute.

I have considered the pleadings and I find that the defendants have denied the claim of the petitioner/plaintiff that the defendants had filled up a land and constructed a building thereon. The defendants have also denied the allegations with regard to construction of a dwelling house over the portion of the suit property. The plaintiff alleged construction and the defendants denied such construction. These are matters which can be proved by evidence and local inspection is not required. The learned court below has rightly rejected the application. The schedule of inspection also does not indicate that the points to be determined by way of local inspection cannot be proved by evidence.

The revisional application is disposed of.

There will be, however, no order as to costs.

Urgent Photostat certified copy of this order, if applied for, be given to the parties on priority basis.

(Shampa Sarkar, J.)