

4th March, 2021
(D/L 65)
(SKB)

C.O. 306 of 2021
(Via Video Conference)

Shyama Prasad Bangal and others
Versus
Phani Bhusan Manik and others

Mr. Sukanta Das

... for the petitioners.

This revisional application is directed against the order dated January 11, 2021 passed by the learned Civil Judge (Senior Division), Ghatal, Paschim Medinipore in Title Suit No.83 of 2001.

By the order impugned, the learned court below appointed a learned advocate as Commissioner in order to measure the area of the suit property as to whether the same was 7 decimals or 8¼ decimals. This order was passed pursuant to the direction passed by this Court in an application for amendment of the plaint. The learned court was directed to deal with the amendment upon ensuring the actual measurement of the suit plot, that is, whether the suit plot was 7 decimals or 8¼ decimals. Thus, following the order of this High Court, the learned court below appointed an Advocate-Commissioner for the purpose of measuring the area of the suit plot.

It is not possible for the court itself to embark into physical enquiry and measure the suit property and as such, in order to get actual measurements of the

property, an Advocate-Commissioner was appointed by the learned court below.

Thus, I do not find any illegality in the order impugned. With regard to the cost to be borne by the plaintiff, I also do not agree that the opposite parties should bear the costs. If the plaintiff wants to amend the plaint which was directed to be decided on the basis of a measurement to be taken by the Court, it is for the plaintiff to bear the cost in support of his own amendment. I do not find any illegality in the order impugned.

This revisional application is disposed of.

There will be however no order as to costs.

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

(Shampa Sarkar, J.)