

07.04.2021
Court No. 19
Item no.17
CP

C.O. 698 of 2021

Mahabat Mallick & ors.
vs.
Jhantu Mondal & ors.

Mr. Samik Sarkar

.....for the petitioners.

This revisional application has been filed challenging an order dated January 20, 2021 passed by the learned Civil Judge (Junior Division), 2nd Court, Krishnanagar, Nadia in Title Suit No. 178 of 2019.

The points of local inspection are as follows:

“1. Ld Advocate commissioner will inspect who are in possession of the suit property at present?

2. Whether there is any dwelling house over the suit plot? If so who are in possession of the said dwelling house situated over the suit property?”

This is a suit for declaration and permanent injunction. The plaintiffs/petitioners prayed for a decree of declaration that they were the absolute owners of the suit property, a decree of permanent injunction restraining the defendants from creating any unlawful disturbances with the peaceful possession of the plaintiffs over the suit property and further restraining the defendants from entering into the suit property thereby dispossessing the plaintiffs by force.

The defendants have denied the existence of any structures in the suit property allegedly under the possession of the plaintiffs. Thus the possession is a contentious issue here. The plaintiffs are to prove their own case. Allowing the points as mentioned hereinabove for local inspection will amount to allowing the plaintiffs to fish out the evidence or collect evidence with regard to their possession which cannot be permitted. The learned court below has rightly held that the local inspection cannot be allowed for finding out who was in possession of a particular property.

I do not find any illegality and/or irregularity in the order impugned.

The revisional application is dismissed. There shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties as expeditiously as possible subject to compliance of all usual formalities.

(Shampa Sarkar, J.)