

S/L 4
04.02.2021
Court. No. 19
GB

C.O. 3570 of 2019

Gopeswar Pal & Ors.
Vs.
Debasish Pal & Ors.

(Through Video Conference)

Mr. Arup Kundu.

...for the Petitioners.

The revisional application has been filed challenging an order dated July 17, 2019, passed by the learned Civil Judge (Junior Division), Additional Court, Bankura in Title Suit No.43 of 2016.

The petitioners are aggrieved by the aforementioned order as the learned court below rejected the application under Order 26, rule 9 of the Code of Civil Procedure. It is the contention of the petitioners that 'Kha' schedule property was not a distinct and demarcated property and as such a local investigation was necessary.

Learned court below rejected the application on the ground that in a suit for declaration of title and ownership over 'Kha' schedule property, there was no requirement for local investigation as there was no dispute which was required to be elucidated by way of appointing an advocate Commissioner or a survey passed Commissioner.

I find from the plaint that the case of the plaintiffs is that the plaintiffs have inherited 'Kha' schedule property,

which is a part of 'Ka' schedule property. In the schedule of the plaint the description of 'Ka' and 'Kha' schedule property has been properly given. The description shows that the 'Ka' and 'Kha' schedule properties have their distinct boundaries and measurements. The defendants are also claiming rival title to the said property. It is the allegation of the plaintiffs that the defendants have got their name recorded in the record of rights by misleading the authorities. For such recording, the plaintiffs have also taken steps before the appropriate authority. As such this is not a boundary dispute, but a dispute with regard to the title over the 'Kha' schedule property, where both the parties are claiming rival title.

I do not find any reason to interfere with the order impugned. The area demarcation and position of the 'Kha' schedule property will be distinctly available from the land records.

The revisional application is dismissed.

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.)