

26 02.08.
2022
AGM
/RKB
Ct
07

C.O. 1635 of 2022

**Sabed Sha & Ors
Vs
Dulali Bibi & Ors**

**Mr. Gour Baran Sau,
Ms. Mousumi Kundu, ... for the petitioners.**

The subject matter of challenge in this revisional application is against the acceptance of learned Investigation Commissioner's report submitted under Order 26 Rule 10 of the Code of Civil Procedure.

Mr. Gour Baran Sau, learned advocate appearing for the petitioners submits that permanent land marking (fixed point) could not be appropriately ascertained from independent sources, and thus the report has been erroneously submitted.

Admittedly, the petitioners/defendants submitted written objection against the submission of learned Investigation Commissioner's report under Order 26 Rule 10 (2) of the CPC. The learned commissioner was examined in connection with objection hearing. The learned commissioner was further subjected to cross-examination.

Upon perusal of the impugned order, it appears that the Court below has considered all the aspects raised in the objection petition, in context with the report already submitted by the learned Investigation Commissioner, and the evidence, adduced by the

learned Investigation Commissioner during the objection hearing against the acceptance of the learned Investigation Commissioner's report.

The Court below has accepted the report for the same having held upon service of notice to the other sides.

More so, the three fixed points having also been verified from independent plot corners, the Court below was not prepared to accept the illegality, alleged to have made by the petitioners, while accepting the report.

Though, it is contended by the learned advocate appearing today for the petitioners that there has been some irregularities committed by the Investigation Commissioner, but the same was unfolded during the evidence adduced by the learned Investigation Commissioner in connection with the objection hearing against the acceptance of Investigation Commissioner's Report.

Upon perusal of the impugned order, it appears that the reasons being sufficiently subscribed by the Court below, while accepting the learned Investigation Commissioner's Report, the same does not call for any interference.

The revisional application is thus disposed of.

This would not, however, prevent the petitioners from adducing sufficient witnesses during the trial of the case to reveal the possession of suit land, apart

from undertaking cross-examination in respect of the witnesses to be examined by the opposite parties/plaintiffs.

Petitioners are directed to make communication of this order to the learned court below as well as to the learned advocate appearing in the court below for the opposite parties and the opposite parties.

With this observation and direction, the revisional application stands disposed of.

Urgent photostat certified copy of the order, if applied for, be given to the parties on usual undertakings.

(Subhasis Dasgupta, J)