

08.09.2022
S/L No.25
KS

C.O. 2051 of 2022

Sefali Roy & Ors.
-Vs.-
Uttam Kumar Saha & Ors.

Mr. Partha Sarathi Das
.....For the Petitioners
Mr. K. Das Poddar
Mr. Sujit Bhunia
.....For the Respondent

The subject matter of challenge in this revisional application is against the order of rejection of a prayer for local investigation under Order 26 Rule 9 of the Code of Civil Procedure.

Admittedly, the prayer for local investigation has been made by the petitioner/plaintiff in a suit for declaration and injunction, wherein examination and cross-examination of either of the parties to this case has already been concluded.

Learned advocate appearing for the petitioners submits that the entire purpose of local investigation is to reveal the actual scenario of the suit property including the possession of the plaintiff/petitioner therein.

Mr. Poddar, learned advocate appearing for the opposite party submits that the purpose of local investigation is neither to reveal the extent of encroachment, nor to seek recovery of possession in aid of mandatory injunction being granted. It is basically to give a go bye to the evidence disclosed in the cross-examination of witness, and nothing else, Mr. Poddar argues.

Having considered the submission of both sides, it appears that the answer revealed during the cross-examination has been sought to be testified in aid of an application under Order 26 Rule 9 of the Code of Civil Procedure under the guise of revealing present scenario of the suit property, and that is not at all permissible in aid of Order 26 Rule 9 of the Code of Civil Procedure. Admittedly it is not a case based on encroachment, nor a dispute seeking recovery of possession.

Upon perusal of the impugned order, it appears that the Court below has subscribed sufficient reasons while rejecting prayer under Order 26 Rule 9 C.P.C. The impugned order does not call for any interference.

With this observation the revisional application stands disposed of.

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

(Subhasis Dasgupta, J.)