

14.03.2022
(S/L-13)
Ct.-18
(Susanta)

C.O. 2674 of 2019

Dilip Kumar Manna
-Vs-
Pradip Kumar Manna & Anr.

Mr. Nilanjan Bhattacharjee,
Mr. Arpan Guha,
.... For the Petitioner.

Mr. Debjit Mukherjee,
Ms. Susmita Chatterjee,
Ms. Dipanwita Ganguly,
Mr. K. Bhattacharya,
.... For the O.P no. 1.

The revisional application under Article 227 of the Constitution of India is at the instance of the defendant no. 1 in a suit for partition and is directed against the order dated June 12, 2019 passed by the 3rd Court of learned Civil Judge (Senior Division), Howrah in the said suit being Title Suit No. 598 of 2015.

The petitioner in the suit filed an application under Order XXVI Rule 9 of the Code of Civil Procedure for appointment of a Survey Pass Investigation Commissioner to hold investigation of the portion of the suit property under his possession.

The petitioner sought such investigation to demonstrate his possession and the nature of construction over the said portion of the joint properties of the parties.

The learned Trial Judge by the order impugned has dismissed the said application for default.

Mr. Nilanjan Bhattacharjee learned advocate for the petitioner submits that his client has raised two pucca rooms with verandah and kitchen in the portion of the suit property under his possession and to demonstrate the nature and the age of such construction, the petitioner is praying investigation of the said portion of the suit property.

The suit is for partition of the joint properties of the parties. The suit is at the very preliminary stage, the investigation as prayed for is not necessary at this stage. The purpose of which the petitioner is seeking investigation may be relevant at the final decree proceeding.

The prayer of the petitioner for appointment of Survey Pass Commissioner is prematured as such the order impugned does not call for any interference.

C.O. 2674 of 2019 is disposed of with the above terms without any order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)