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C.O. 3017 of 2022

**Usman Ali
Vs
Manglu Md. & Ors**

Mr. Bhagbat Chaudhuri,
... For the petitioner.

The subject matter of challenge is against the order dated 31st August, 2022 passed by learned Civil Judge (Junior Division), Raiganj in Title Execution Case No. 02 of 2016 appointing learned Investigation Commissioner for holding local investigation and to spell out the boundary description of the suit property for some apparent mis-description in the schedule of the suit property, w sought to be executed.

Admittedly, petitioner is a judgment-debtor and there has been an ex parte decree granted in the year 2016. Learned advocate appearing for the judgment-debtor/petitioner is candid in his submission that in the meantime there has been no appeal preferred challenging the ex parte decree and no petition under Section 47 CPC has also been filed by the judgement-debtor to dispute with the execution, discharge and satisfaction of the decree, even in this execution proceeding.

As per submission disclosed by the petitioner, there is some mis-description of the subject property,

and when there has been no boundary disclosed in the suit property mentioned in the schedule of the plaint, the decree cannot be executed.

Upon perusal of the impugned order, it appears that for the apparent mis-description of the suit property, there has already been an appointment of Investigation Commissioner to spell out the boundary description of the suit property in connection with the proposed execution of the decree.

Without challenging the decree, it would not be a business of the judgment debtor to peep into the exercise, already undertaken by opposite parties as to how the decree-holder would get his ex parte decree executed with respect to the suit property mentioned in the schedule of the plaint.

The impugned order does not call for any interference.

This would not, however, prevent the judgment-debtor to take up appropriate action to dispute with the decree in accordance with law as available in the Code of Civil Procedure.

Petitioner is 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)