

Item No. 12
19.06.2023
Court. No. 19
GB

C.O. 672 of 2023

Nazrul Islam
Vs.
Abdul Mannan & Ors.

*Mr. Sourav Sen,
Mr. Partha Chakraborty,
Mr. Muhammad Obaid*

...for the Petitioner.

Mr. Ramkrishna Bhattacharyya

...for the Opposite Party Nos.1 to 9.

This revisional application has been filed challenging an order dated February 6, 2023 passed in Partition Suit No.193 of 2019, which is pending before the learned Civil Judge (Senior Division), Isampur, Uttar Dinajpur. By the order impugned, the learned court below allowed an application for local inspection filed by the opposite party nos.1 to 9/defendants in the suit. The learned court held that the actual physical position of the suit property and the local features were required to be brought on record by such inspection.

Mr. Sen, learned advocate for the plaintiffs/petitioners submits that although the expression 'position' has gone down in the application and also in the order, the true meaning of the said expression would be 'possession' of the defendants in the suit property. It is also submitted that a conjoint reading of the averments in the application and the reasons of the learned court below as reflected in the order would indicate that the whole purpose for such local inspection was to fish out evidence with regard

to the possession of the defendant nos.1 to 9 in respect of the suit property.

This Court is not in agreement with Mr. Sen. His apprehension is unfounded. After going through the points for commission, it appears that the defendants wanted a local inspection on the following:-

- a) To go to the locale and draw a rough sketch map of the schedule property.
- b) To note whether there was blocks in suit property.
- c) To note any other local feature.

This Court is of the view that the three points if allowed, would not in any way determine as to whether the defendants were in possession of the suit property or in any part thereof or even in the blocks.

The commission on the above three points is allowed. Apart from the above points, no other observation with regard to the right, title, interest and possession of any of the parties or any other person, not being a party to the suit, shall be a part of the local inspection. Time to file the report is extended by a period of two months from the date of communication of this order. The learned advocate commissioner shall file a report within the aforementioned period. The cost shall be deposited by the defendant within two weeks from the date of communication of this order, if not already done.

As the main revisional application is disposed of, the vacating application also stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties on priority basis.

(Shampa Sarkar, J.)