

11.10.2023

Ct.No. 7
Sl.No.AD 32
Amalranjan

C.O. No. 3198 of 2023

Msd. Momena Bibi and ors

Vs.

Sk. Saukat Ali and ors.

Mr. Raj Kumar Saain

...for the petitioners

The defendant in a Suit for declaration of Title and recovery of possession has challenged an order being No. 33 dated 31st July, 2023 by virtue of which the application filed; by the opposite party under Order 26 Rule 9 of the Code of Civil Procedure was allowed.

The learned advocate appearing for the petitioners submits that the defendants/petitioners herein are in adverse possession over a strip of property as depicted in the plan and therefore the allegation of the plaintiff that the defendant has encroached upon a strip of land is not correct.

It appears from the materials on record that the plaintiff has filed the suit alleging that the defendants/petitioners herein has encroached upon a portion of the property. The encroached portion has been specifically depicted in the said sketch map.

The application under Order 26 Rule 9 of the Code of Civil Procedure was filed by the

plaintiff in order to bring a clear picture and to ascertain the encroachment of a strip of property. The learned Judge in the considered of the view of this court has rightly allowed the application under Order 26 Rule 9 of the Code of Civil Procedure.

The order impugned does not suffer from any infirmity or impropriety warranting interference under Article 227 of the Constitution of India.

The revisional application, accordingly, stands dismissed.

Urgent certified photo copy of this order, if applied for, be given to learned advocates for the parties upon compliance of all requisite formalities.

(Hiranmay Bhattacharyya, J.)