

December 19, 2023
Sl. No.31
Court No.19
s.biswas

CO 4182 of 2023

Sri Giridhari Barik
vs.
Sri Tapan Mondal

Mr. Soumen Datta
Mr. Partha Sarathi Basu

... for the petitioner

The petitioner is aggrieved by an order dated November 22, 2023 passed by the learned Civil Judge (Junior Division), 1st Court, Contai, Purba Medinipur, in J. Misc. Case No.25 of 2022.

By the order impugned, the application for local inspection filed under Order 39 Rule 7 of the Code of Civil Procedure was rejected by the learned Civil Judge (Junior Division), 1st Court, Contai, Purba Medinipur. By the same order, an application for amendment of the pleadings was allowed. The petitioner is aggrieved by the rejection of the application for local inspection.

This court is of the view that the application for local inspection cannot be allowed. Allowing the same would amount to fishing out evidence. The petitioner has already filed an application under Order 21 Rules 99 and 101 being J. Misc. Case No.25 of 2022, which is pending adjudication.

The petitioner is at liberty to adduce evidence in the said proceeding and the learned court below shall dispose of the same, in accordance with law.

Thus, it is for the petitioner to prove his possession in respect of the property in question and local inspection would only allow the petitioner to collect evidence in his favour. The learned court below had rightly rejected the application.

The revisional application is disposed of without any order.

The learned court below shall proceed expeditiously with the pending application.

This court has not gone into the merits of the issues involved.

There shall be no order as to costs.

All the parties are directed to act on the basis of the server copy of the order.

(Shampa Sarkar, J.)