

M/L 67
13.6.2024
Court No.19
SD

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION

CO 259 of 2024

Sri Kiran Patra
Vs.
Shri Mahadeb Das & Anr.

Mr. Sounak Bhattacharyya
Mr. Sounak Mandal

...for the Petitioner.

The revisional application under Article 227 of the Constitution of India is at the instance of the plaintiff in a suit for declaration of title and is directed against the order dated December 20, 2023 passed by the 3rd Court of learned Civil Judge (Junior Division), Alipore, District 24 Parganas (South) in the said suit being Title Suit No.1110 of 2020.

The learned Trial Judge by the order impugned has dismissed the application filed by the petitioner for holding local investigation on the suit property on the ground that the plaintiff is trying to fish out the evidence.

Mr. Bhattacharyya, learned advocate for the petitioner argues that the defendants have encroached upon the suit property, to ascertain the extent of such encroachment, local investigation is necessary.

It appears that at paragraph 9 of the plaint, the plaintiff has detailed the alleged encroachment, and the defendants, in their written statement sought to justify possession over the said area claiming to be licensee under the plaintiff.

In view of the such position in the pleadings of the parties, the local investigation to identify the suit property and to ascertain the extent of alleged encroachment is an unnecessary drill. The learned Trial Judge therefore has rightly dismissed the said application of the petitioner.

The order impugned does not call for any interference.

CO 259 of 2024 is dismissed, there shall however be no order as to costs.

Parties to act on the server copy of this order duly downloaded from the official *website* of this Court.

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

(Biswajit Basu, J.)