

04.09.2024
Item No.79 ML
Ct.19
A.J.

**IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION**

C.O. 480 of 2024

Sri Sashadhar Mahato

-Vs-

Sri Birendranath Gorain & Ors.

Mr. Chittapriya Ghosh,
Ms. Priyanka Saha.
.....for the petitioner.

The defendant no.1 in a suit for declaration of title alternatively partition is the petitioner of the instant application under Article 227 of the Constitution of India which is directed against Order No.22 dated September 21, 2022 passed by the Additional Court of the learned Civil Judge (Senior Division), Purulia in the said suit being Title Suit No.4 of 2021.

The learned Trial Judge by the order impugned has dismissed an application filed by the petitioner under Order XXVI Rule 9 of the Code of Civil Procedure for holding investigation of the suit property by a Survey Passed Pleader Commissioner to investigate the points mentioned in the said application.

The petitioner is contesting the suit with a defence that by virtue of purchase, he is holding a specific portion of the suit property and wants to demonstrate his such possession by taking recourse of Order XXVI Rule 9 of the Code.

In view of the alternative prayer of the plaintiffs in the suit for a decree of partition, the same exercise would be carried out at the time of drawing final decree of partition, therefore, at this stage, the exercise as prayed for, is not necessary.

The order impugned, for the aforesaid reason, does not call for any interference.

C.O. 480 of 2024 is dismissed without any order as to costs.

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

(Biswajit Basu, J.)