

25.06.2024
Item No.123, ML
Ct.19
A.J.

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

C.O. 1006 of 2024

Subrata Sengupta

-Vs-

Smt. Rupinder Majumdar & Ors.

Mr. Biswajib Ghosh,
Mr. Sourojit Dasgupta,
Mr. Sayan Chattopadhyay,
Mr. Pratik Dalui.

.....for the petitioner.

The defendant in a suit for declaration is the petitioner of the instant application under Article 227 of the Constitution of India which is directed against order dated February 21, 2024 passed by the 1st Court of the learned Civil Judge (Junior Division) at Alipore, District : 24-Parganas (South) in the said suit being Title Suit No. 281 of 2003.

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 investigation of the suit property.

Heard learned for the petitioner, perused the materials-on-record.

The defendant is denying the existence of the suit property, as such, to succeed, *it is the duty of the plaintiff to prove the existence of it*. The action of the defendant to have local investigation of the suit property to prove the non-existence of the suit property, is a misconceived action.

The order impugned does not call for any interference.

The suit is pending for a considerable period of time, as such the learned Trial Judge is requested to expedite the disposal of it and in doing so, shall not entertain the prayer of the parties for any unnecessary adjournment.

C.O. 1006 of 2024 is thus disposed of 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.)