

S/L 36
29.8.2024
Court No.19
SD

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION

CO 1702 of 2024

Sri Ananda Mohan Ghosh & Ors.

Vs.

Sri Krishna Pada Ghosh & Ors.

Mr. Saptarshi Kumar Kundu

...for the Petitioners.

The instant application under Article 227 of the Constitution of India is at the instance of the plaintiffs in a suit for declaration and is directed against order no.15 dated March 12, 2024 passed by the 1st Court of learned Civil Judge (Junior Division) at Ranaghat, District: Nadia in the said suit being *Title Suit No.53 of 2023*.

The plaintiffs had filed an application under Order XXVI Rule 9 of the Code of Civil Procedure for holding local investigation, *inter alia*, to ascertain the exact location of suit Schedule 'A' land.

The learned Trial Judge by the order impugned has dismissed the said application holding that such investigation is not necessary as the points on which the said investigation is prayed for can be proved by adducing evidence.

The plaintiffs have described the suit properties in the Schedules appended to the plaint and the same have been delineated in a sketch-map annexed thereto.

To establish their title, the plaintiffs are required to produce cogent evidence(s) regarding the location and other features of the suit property; taking aid of Order XXVI Rule 9 of the Code is an attempt to collect evidence to prove such title, which is not permissible.

The order impugned therefore does not call for any interference; CO 1702 of 2024 is thus dismissed without any 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 copies of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Biswajit Basu, J.)