

M/L 106
01.8.2024
Court No.19
SD

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION

CO 1740 of 2024

Sri Manoranjan Patra
Vs.
Sri Jhantu Dolai & Anr.

Mr. Sounak Bhattacharyya
Mr. Raghunath Das

...for the Petitioner.

The plaintiff in a suit for declaration of title is the petitioner of the instant application under Article 227 of the Constitution of India which is directed against Order No.41 dated February 20, 2024 passed by the 1st Court of learned Civil Judge (Junior Division), Contai, District Purba Medinipur in the said suit being Title Suit No.58 of 2022.

The learned Trial Judge by the order impugned has dismissed an application under Order XXVI Rule 9 of the Code of Civil Procedure with the following observations:-

“Having perused the pleading of the parties, it appears that the plaintiff claims that he is owner of KA suit land and defendants are owner of Kha suit land but the defendants are trying to raise construction encroaching plaintiff’s Ka suit land on the plea that the same is part of their Kha suit land. The scheduled Ka and Kha are two separate plots. Neither there is any other scheduled land nor the plaintiff specify the area which claims by the defendant as part of their Kha suit land. For the purpose of determination of the title of the plaintiff as prayed for, survey investigation on the points mentioned, is not necessary.”

The above mentioned findings of the learned Trial Judge do not call for any interference.

Mr. Bhattacharyya, learned advocate for the petitioner submits that the investigation, as prayed for, was necessitated due to the happening of some subsequent events.

The said events have not yet been made part of the pleadings, as such, the learned Trial Judge has rightly refused the prayer of the plaintiff for local investigation.

However, on bringing the said events on record, the plaintiff may renew his prayer.

CO 1740 of 2024 is disposed of 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.)