

Item No.14
07.03.2024
Court. No. 19
GB

C.O.2212 of 2023

Sri Pradip Kumar Kanp & Anr.
VS
Sri Dilip Pati & Ors.

Mr. Satyajit Mondal,
Mr. Amal Krishna Saha,
Mr. Amit Bikram Mahata

...for the Petitioners.

Mr. Bhabani Prasad Mondal,
Mr. Sukanta Mondal,

...for the Opposite party.

1. Affidavit-of-service filed in Court today, be kept with the record.
2. By the order impugned dated March 23, 2023, passed by the learned Civil Judge (Junior Division) Haldia, Purba Medinipur in J. Misc. (Preemption) Case No.46 of 2022, the application for local inspection filed by the petitioners/preempteers was rejected. The court rejected the said application on the ground that local inspection could not be allowed in respect of a non-suit plot. The nature and character of the suit property was not an issue in the proceeding. The points for local inspection as prayed for by the petitioners, were as follows:-
 - a) Whether there was a Baram path between plot no.1270 and plot nos.1272 and 1273.
 - b) The local features of the said plots.
 - c) Whether there were existence of any dwelling house on plot nos.1270, 1272 and 1273.

3. The preemptor filed the application for preemption as contiguous owner in respect of the plot nos.1272 and 1273. The preemptor claims to be the owner of plot no.1270. The preemptees have filed their objection. In the written statement filed by the vendor of the petitioner there is reference to a Baram path between plot no.1270 and plot nos.1272 and 1273.
4. Thus, such application was filed before the learned court below for ascertainment with regard to the existence of a Baram path.
5. According to Mr. Saha, learned advocate for the petitioners, if existence of the Baram path is found, then the contention that the petitioner was a contiguous owner, would not be proved. Mr. Saha further submits that the local inspection ought to have been allowed only on this point.
6. In my opinion, the learned court misdirected itself and came to the conclusion that the local inspection of a non-suit plots could not be directed to be held. I find that in paragraph 3 of the preemption application it has been stated that the preemptor and his wife purchased plot no.1270, which was on the eastern side of plot nos.1272 and 1273. Thus, the finding of the learned court is erroneous. The order impugned is set aside. The learned court is directed to hear the application for local inspection on merits and pass necessary orders with reasons upon contest. Such application shall be disposed of within a period of one

month from the next date fixed. The court will decide the application on its own merits without construing this order as any observation in support of the pending application.

7. The petitioners are directed to serve a copy of this order upon the opposite parties as also upon the learned advocate appearing on behalf of the opposite parties in the learned trial court.
8. Accordingly, the revisional application is disposed of.
9. However, there will be no order as to cost.
10. All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)