

09.07.2024
Item No. 12, DL
Ct.19
A.J.

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

C.O. 2393 of 2024

Swarup Pradhan

-Vs-

Sri Narayan Chandra

@ Rabindra Nath Jana & Ors.

Ms. Pallabi Chatterjee.

.....for the petitioner.

The instant application under Article 227 of the Constitution of India is at the instance of the plaintiff in a suit for declaration and recovery of possession which is directed against the order dated December 21, 2023 passed by the learned Civil Judge (Junior Division) at Haldia, District : Purba Medinipur in the said suit being Title Suit No. 56 of 2010.

The learned Trial Judge by the order impugned has dismissed an application filed by the plaintiff for holding local investigation of the suit properties for measurement and identification under Order XXVI Rule 9 of the Code of Civil Procedure.

The plaintiff has sought for decree of declaration of his title over the suit properties and recovery of possession of the land allegedly encroached upon by the defendants. The alleged encroached area has been specifically described under schedule 'K1' appended to the plaint. The

plaintiff is required to prove the said allegation of encroachment by adducing cogent evidences, he is not entitled to resort to Order XXVI Rule 9 of the Code to collect evidence in aid of his such allegation.

The order impugned, therefore, does not call any interference.

C.O. 2393 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.)