

30.09.2024
(D/L-21)
Ct.-19
(Susanta)

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION

C.O. 3336 of 2023
With
I.A. No. CAN 1 of 2024

Sri Bidyut Kumar Dey
-Vs-
Smt. Bhabani Mondal & Anr.

Mr. Gopal Chandra Ghosh,
Ms. Sunandana Saha,
.... For the Petitioner.
Mr. Krishnendu Bhattacharya,
Mr. Rounak Majumdar,
... For the Opposite Parties.

The matter though has been brought to the list on the prayer of the petitioner for extension of interim order but by the consent of the parties the matter is taken up for final disposal.

The defendant no. 2 in a suit for declaration of title is the petitioner of the instant revisional application under Article 227 of the Constitution of India which is directed against order No. 49 dated July 03, 2023 passed by the 3rd Court of learned Civil Judge (Junior Division), Paschim Medinipur in the said suit being Title Suit No. 118 of 2014.

The learned Trial Judge by the order impugned has allowed an application under Order XXVI Rule 9 of the Code of Civil Procedure filed by the plaintiffs for appointment of a Commissioner

for investigation of a suit property, inter alia, to ascertain the identity of the suit property.

The plaintiffs are in possession of the suit property no case of encroachment has been made out, besides the suit property has been described in the schedule appended to plaint with boundary. The investigation of the suit property therefore is unnecessary, accordingly, the order impugned is set aside. The application under Order XXVI Rule 9 of the Code filed by the plaintiffs is dismissed.

C.O. 3336 of 2023 is allowed without any order as to costs.

In view of the disposal of the revisional application, the connected application being CAN 1 of 2024 is also disposed of.

The learned Trial Judge is requested to expedite the disposal of the suit.

Parties to act on the server copy of this order duly downloaded from the official *website* of this Court.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)