

**Item 11.03.
No. 2025
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**Ct
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IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE

CO 149 of 2022

**Sri Asim Mondal
Vs
Hiren Mondal & Ors.**

Mr. Arup Krishna Das.

... for the petitioner.

1. Affidavit of service filed in court today be kept with the record.
2. None appear on behalf of the opposite parties.
3. This revisional application has been filed assailing the order dated 14.12.2021 passed in connection with Title Suit No. 7491 of 2017, wherein Learned Civil Judge (Junior Division), Additional Court, Asansol refused one application under Order 39 Rule 7 of the Code of Civil Procedure (for short C.P.C.) dated 17.09.2021, filed by the plaintiffs/petitioner herein, in the suit for declaration and permanent injunction in respect of 'B' and 'C' schedule property against the defendant/opposite party Nos. 1 to 4 herein.
4. From the record, it appears that after filing of the suit, one injunction application filed by the plaintiffs was taken up for hearing and passed an

order by the Learned Trial Court. Learned Judge after considering the rival contention of the parties to the suit directed both the parties to maintain status quo over the subject property with regard to its nature and character as on date. After promulgating an injunction order, one application under Order 39 Rule 7 of the C.P.C. was filed on behalf of the plaintiffs stating, *inter alia*, that in violation of the said order defendants/opposite party Nos. 1 to 4 herein circumscribed the plot No. 193/379 ('C' Schedule property) by raising boundary wall.

5. To bring the actual position of the suit property, according to plaintiff, the application under Order 39 Rule 7 of the C.P.C. was taken out.
6. Learned Judge opined that local investigation sought for by the plaintiffs will not help the Court to adjudicate the matter in issue in the suit.
7. The suit was filed with a prayer for declaration and permanent injunction in the respect of Schedule 'B' and Schedule 'C' land and it is the duty cast upon the plaintiffs to prove the right, tittle and interest over the property as well as possession thereof. So far as the violation of the injunction order is concerned, plaintiffs are yet to take steps according to relevant provision. But so far as the subject matter of the suit is concerned, it is the duty of

plaintiffs to show that they have the right, title and interest over the properties and they are in possession of the same. For that reason plaintiffs cannot ask for any local investigation under Order 39 Rule 7 of the C.P.C.

8. In the aforesaid view of the matter, I find no infirmity in the order dated 14.12.2021 passed by the Learned Trial Judge in connection with Title Suit No. 7491 of 2017.
9. With the aforesaid observation, the revisional application stands dismissed.
10. However, Learned Trial Judge is requested to dispose of the Suit pending since 2017 as expeditiously as possible.
11. Interim order, if any, stands vacated.
12. Urgent photostat certified copy of the order, if applied for, be given to the parties on usual undertakings.
13. All the parties shall act on the server copy of this order duly downloaded from the official web site of this Court.

(Bibhas Ranjan De, J.)