

12.11.2025
Item No.36
Ct. No. 30
Aloke

CO 195 of 2023

**Nirmalendu Samanta
Vs
Amalendu Samanta**

Mr. Saumyen Datta
Mr. Tapas Singha Roy
... for the petitioner

1. The writ application has been preferred challenging an order in T.S. No. 493 of 2017 dated 16.12.2022, passed by the learned Civil Judge (Junior Division), 6th Court, Howrah.
2. Vide the said order under challenge the learned trial Court had directed local investigation by allowing an application under Order 26 Rule 9 CPC.
3. Learned counsel for the petitioner submits that the learned trial Court erroneously allowed the said application wherein the plaintiff had mentioned the word 'unauthorized' in the points for investigation.
4. It is submitted that a local Survey Commissioner is not empowered to decide what is authorized and what is unauthorized.
5. It appears that subsequently, on 08.09.2025 the Survey Commissioner has already filed his report, which is on record and the next date for acceptance of the same is fixed on 10.02.2026.
6. On hearing the learned counsels appearing for the parties and considering the order under challenge and the points which were raised for local

investigation, this Court directs that the trial Court while considering the acceptance of the local investigation report shall keep in mind that the local Survey Commissioner is not the appropriate authority to decide as to what is 'unauthorized' and what is 'authorized'.

7. Such decision is to be taken by the Court on the basis of materials/evidence on record.

8. Accordingly, the learned trial Court shall proceed in the case keeping in mind the observations of this Court.

9. The revisional application stands disposed of.

10. Connected application, if any, stands disposed of.

11. Interim order, if any, stands vacated.

12. Urgent Photostat certified copy of this order, if applied for, be given to the parties, upon usual undertakings.

(Shampa Dutt (Paul), J.)