

D/L- 96
22/04/2025
Ct. No.-6
Aritra

C.O. 414 of 2025

**Chintarani Ghosh
Vs.
Madan Ghosh & Ors.**

Mr. Md. Nure Zaman
Mr. S. Bose
Ms. Anima Chakraborty
.....for the petitioner

This application under Article 227 of the Constitution of India is at the instance of the defendant and is directed against an order being No.80 dated October 1, 2024 passed by the learned Civil Judge (Sr. Div.), Kalna in Title Suit No.47 of 2022.

By the order impugned the application under Order 39 Rule 7 of the Code of Civil Procedure filed in connection with a suit for partition stood rejected.

The learned advocate appearing for the petitioner submits that though local inspection was prayed for on two points but on instruction from his client he is pressing the prayer for local inspection only with regard to point no.1.

The opposite party herein filed a suit for partition.

The petitioner herein is contesting the said suit by filing a written statement thereto. In such a suit the petitioner herein filed an application under Order 39 Rule 7 of the Code of Civil Procedure for appointment of a commissioner to hold local inspection to ascertain as

to whether there is any old pakka house on the extreme north of plot No.452 and if so the description of the same.

After going through the plaint of the instant suit this Court is of the considered view that the application for local inspection is nothing but an endeavor on the part of the defendant to fish out evidence which is not permissible in law.

Considering the nature of the suit which is for partition, this Court is of the considered view that the local inspection on the points as mentioned in the application for local inspection are not necessary for the purpose of deciding the instant suit.

For such reason, this Court is not inclined to interfere with the order impugned and CO 414 of 2025 stands dismissed.

There will be no order as to costs.

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

(Hiranmay Bhattacharyya, J.)