

24.06.2025
Item no. 29.
Court No.6.
AB

C. O. 563 of 2025

**Haripada Bera
Vs
Ekadashi Bera & Ors.**

Mr. Yudhisthir Maityfor 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 no.92 dated November 18, 2024, passed by the learned Civil Judge (Jr. Division), Additional Court, Tamluk, Purba Medinipur in Title Suit No.92 of 2021.

By the order impugned, the application under Order 26 Rule 9 of the Code of Civil Procedure filed by the plaintiff/petitioner herein stood rejected.

The petitioner filed a suit for partition and for other consequential reliefs. In such a suit, the petitioner filed an application under Order 26 Rule 9 of the Code of Civil Procedure, which was rejected by the order impugned.

Learned advocate for the petitioner submits that the learned Trial Judge passed an order of status quo in a misc. appeal.

The learned advocate further submits that since the defendants/opposite parties herein are violating the order of status quo, the local investigation is absolutely necessary for the purpose of maintenance of

the status quo order and to ensure that the opposite parties do not violate the same.

On a query of this Court, the learned advocate for the petitioner submits that no Misc. Case under Order 39 Rule 2A has been filed.

The application for local inspection has been filed in the suit.

This Court finds that the petitioner has prayed for local investigation for the purpose of ascertaining the measurement of A, A1 and B properties and to note the nature and character of the suit property. The petitioner by way of local investigation has prayed for measurement of the length, breadth and quantum of the properties of A Strip and B Strip.

After going through the points for local investigation, this Court is of the considered view that the same was filed in order to fish out evidence which is not permissible in law. The learned Trial Judge assigned cogent reason for rejecting the said application. This Court is not inclined to interfere with such order impugned under Article 227 of the Constitution of India.

The revisional application stands dismissed accordingly.

(Hiranmay Bhattacharyya, J.)

