

Sl. 30
05.05.2025
Court No.6
BP

C.O. 1128 of 2025

Bikash Das
-versus-
Kalpana Sadhukan & Ors.

Mr. Sukumar Ghosh
Mr. Moumita Ghosh
..for the petitioner

This application under Article 227 of the Constitution of India is at the instance of the pre-emptee and is directed against an order dated 10th February, 2025 passed by the learned Civil Judge (Junior Division), 2nd Court, Chandernagore in Pre-Emption Case being PMC No. 16 of 2022.

By the order impugned the application under Order 6 Rule 17 of the Code of Civil Procedure for amendment of the written objection was allowed and the application under Order 39 Rule 7 filed by the petitioner herein stood rejected. The petitioner is aggrieved by the portion of the order by which the application under Order 39 Rule 7 of the Code of Civil Procedure stood rejected.

The learned advocate appearing for the petitioner submits that the opposite party herein filed an application under Section 8 of the West Bengal Land Reforms Act praying for pre-emption on the ground of vicinage.

He submits that for the purpose of effective adjudication of the disputes involved in the pre-emption application local inspection is absolutely necessary.

After going through the application for local inspection this Court finds that the petitioner has sought for local inspection for appointment of a Commissioner in order to show the actual position and of the property and the structures standing thereon. It was also prayed that the Commissioner has to report the mode of user of the said property and whether any brick wall or any construction of fencing has been made or dismantle over the suit property.

The learned trial judge produces an order dated 23rd February, 2024 passed in PMC No. 25 of 2023 wherein the application for local inspection was allowed. Since the said order is not under challenge in the civil revisional application, this Court cannot enter into the propriety of the said order in this application.

After going through the points of local inspection this Court is of the considered view that local inspection is not necessary for the purpose of deciding an application under Section 8 of the West Bengal Land Reforms Act for pre-emption on the ground of vicinage. The petitioner herein sought to fish out evidence by way of local inspection which is impermissible. The learned trial judge assigned cogent reasons for rejecting the application for local inspection.

For such reasons, this Court is not inclined to interfere with such order.

Accordingly, C.O. 1128 of 2025 stands dismissed.

There shall be, however, no order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Hiranmay Bhattacharyya, J.)