

Court No. 6
(265719)

24.04.2025
(AD 8)
(S. Banerjee)

CO 1200 of 2025

Gopal Chandra Mondal
Vs.
Sri Raghunath Mondal & Ors.

Mr. Ivan Roy

...for the petitioner

This application under Article 227 of the Constitution of India is at the instance of the plaintiff and is directed against an order dated February 18, 2025 passed by the learned 1st Civil Judge (Jr. Division), Durgapur passed in Title Suit No. 71 of 2025. By the order impugned the application under Order 39 Rule 1 and 2 of the Code of Civil Procedure, stood rejected and the application under Order 39 Rule 7 of the Code was also rejected.

Learned advocate appearing for the petitioner, in his usual fairness, submits that the petitioner is assailing only that portion of the order by virtue of which the prayer for local inspection was rejected.

The petitioner herein filed a suit for declaration that the petitioner has acquired title of the suit property by way of adverse possession. The petitioner also prayed for a decree for permanent injunction. In such a suit the petitioner filed an application under

Order 39 Rule 7 CPC. The learned advocate for the petitioner submits that the local inspection of the suit property on the points mentioned in the schedule of the application is necessary for the purpose of adjudication of the disputes between the parties in the said suit.

After going through the application under Order 39 Rule 7 CPC this Court finds that the petitioner herein filed the application for local inspection in order to ascertain the nature and character of the suit property; the points shown by the plaintiff's side at the time of commission and any other points which the learned Court may deem fit and proper.

From the points as indicated in the schedule of the said application it appears that the same is nothing but an attempt to fish out evidence which is impermissible in law.

The learned trial Judge assigned cogent reasons for rejecting such an application and this Court does not find any infirmity in the said order.

Accordingly, CO 1200 of 2025 stands dismissed. However, there shall be no order as to costs.

(Hiranmay Bhattacharyya, J.)