

09.06.2025
Item No.34.
Court No.06.
S. De

C.O. 1250 of 2025

**Asish Mitra & Anr.
Vs
Ananda Sikder & Ors.**

Mr. Atanu Basu,
Mr. I. Dutta,

...for the petitioners.

This application under Article 227 of the Constitution of India is at the instance of the plaintiffs and is directed against an order dated 24.2.2025 passed by the learned Civil Judge (Junior Division), 1st Court, Ranaghat, Nadia in Title Suit No. 26 of 2022.

By the order impugned, the application for local investigation stood rejected.

The petitioner filed a suit for declaration of title in respect of 'Ka' schedule property and for recovery of possession in respect of the "Kha" and "Ga" schedule of the plaint which are portions of 'Ka' schedule. In the application under Order XXVI, Rule 9 of the Code of Civil Procedure, the petitioners have prayed for ascertaining and fixing the locality of the suit land as described in the schedule of the plaint and to relay RS & LR plot No.241/697 and to show the suit land in the case map and as to whether the defendants have encroached more or less 3 decimals of land from the northern side and if so, give in detailed measurement

in case map and enlarge case map and report covering the details measurement of encroachment.

After going through the plaint, this Court finds that the plaintiffs have not specified the encroached portion by appending a specific sketch map of the encroached portion in the plaint. The petitioners have sought to fish out evidence by way of local investigation which is not permissible. It is well settled that the Court cannot be used as a tool by a party in collecting the evidence. The learned Trial Judge has assigned cogent reason for rejecting the said application. This Court is not inclined to interfere with the impugned order.

C.O. 1250 of 2025 accordingly stands dismissed.

There shall be no order as to costs.

(Hiranmay Bhattacharyya, J.)