

D/L- 21
22/05/2025
Ct. No.-6
Aritra

C.O. 1794 of 2025

**Manas Nandi
Vs.
Sudhangshu Sekhar Jana**

Mr. Birendra Pathak
Mr. Gaurav Anand
Mr. Subha Pathak

....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.84 dated May 7, 2025 passed by the learned Civil Judge (Jr. Div.), 1st Court, Durgapur in Title Suit No.66 of 2014.

By the order impugned the application filed by the petitioner under Order 39 Rule 7 of the Code of Civil Procedure praying for local inspection stood rejected.

The learned advocate appearing for the petitioner submits that since the plaintiff/opposite party herein has claimed an easementary right over the property of the petitioners, local inspection is necessary for adjudication of such dispute.

The opposite party herein filed a suit for declaration of the opposite party's right of way/passage as described in schedule-C of the plaint under the grant of original owners by way of easement of prescription which the opposite party claims to be using uninterruptedly for

more than 30 years through their vendors for ingress and egress to B-1 and B-2 property from the main road lying adjacent South to the Gha sub plot.

The defendant is contesting the said suit by filing a written statement. It is not the case of the defendant in the written statement that there is an alternative way for ingress and egress to the aforesaid plots.

After going through the point of local inspection, this Court finds that the petitioner has sought for appointment of a commissioner to determine the nature and character of the suit property; the present condition and position of the suit property; whether there is any vacant area or open space available for accessing the B-1 and B-2 schedule property; whether any other path of ingress and egress is there and whether any recent construction has been made by the people of the locality in recent years around the suit property.

After going through the points of local inspection, this Court finds that the petitioner sought to fish out evidence by way of local inspection. That apart the evidence of the parties have been closed and the learned trial judge observed that there is no necessity to hold commission for determination of the actual picture of the suit property as the same is available in the evidence adduced by the parties. The learned trial judge assigned cogent reasons to reject the said application. This Court is not inclined to interfere with such order.

Accordingly, CO 1794 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.)