

10.04.2025
Item No.12, DL
Court No.17
AJ.

**IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION**

C.O. 1630 of 2024

Smt. Bandana Pal & Ors.

-Vs-

Sri Barun Chakraborty & Anr.

Mr. Animesh Paul.

....for the petitioners.

Mr. Gopal Chandra Ghosh, Ld. Sr. Adv.,

Mr. P.K. Banerjee.

...for the opposite parties.

The matter has been brought to the list for extension of interim order but by the consent of the parties, it is taken up for final disposal.

The plaintiffs in a suit for declaration of title and recovery of possession are the petitioners of the instant application under Article 227 of the Constitution of India which is directed against the order dated April 23, 2024 passed by the Additional Court of the learned Civil Judge (Junior Division), Hooghly in the said suit being *Title Suit No. 27 of 2015*.

The learned Trial Judge had allowed the prayer of the plaintiffs for appointment of a Survey Pass Commissioner to investigate the suit property on the points mentioned in the application for such appointment.

The learned Trial Judge, by the order no. 243 dated January 10, 2020, had refused to accept the Commissioner's report. The plaintiffs had assailed the said order in a revisional application being *C.O. 659 of 2021*.

A co-ordinate Bench of this Court, by the order dated February 28, 2023, had disposed of the said revisional application by directing the learned Trial Judge to re-appoint the self-same Commissioner to hold the investigation afresh.

Pursuant to the said direction, a fresh investigation was conducted by the said Commissioner

but once again, his report was found to be faulty. The learned Trial Judge, by the order impugned has refused to accept the same. The plaintiffs are aggrieved by the said order as the learned Trial Judge did not direct re-investigation.

The Court felt the necessity of appointment of a Survey Pass Investigation Commissioner; such necessity cannot be given go-bye for the fault of the Commissioner. The reports of the Commissioner have repeatedly turned out to be faulty; therefore the said exercise must be carried out by another Commissioner.

To facilitate the said drill, the order impugned is set aside. The learned Trial Judge is directed to appoint a Survey Pass Investigation Commissioner, except the erstwhile appointed Commissioner; the costs of the newly appointed Commissioner shall be borne by the plaintiffs, which is assessed @ Rs. 20,000/- (Rupees Twenty Thousand).

In view of the matured stage of the suit, the learned Trial Judge is requested to ensure completion of Commissioner's work as expeditiously as possible.

C.O. 1630 of 2024 is disposed of with the above terms.

Parties to act on the server copy of this order duly downloaded from the official *website* of this Court.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)