

D/L- 33
02/07/2025
Ct. No.-6
Aritra

C.O. 2335 of 2025

**Goutam Kumar Mondal & Ors.
Vs.
Nabakumar Mondal**

Mr. Prosenjit Mukherjee
Mr. Saptarshi Chakraborty
Ms. Babita Pramanik
Mr. Samrat Banerjee

...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 April 8, 2025 passed by the learned Civil Judge (Jr. Div.) 2nd Court at Bolpur, District-Birbhum in Title Suit No.68 of 2018.

By the order impugned the application under Order 20 Rule 9 of the Code of Civil Procedure stood rejected.

The petitioner filed a suit for permanent injunction restraining the opposite party from creating any disturbance in the peaceful possession of the petitioner in respect of the ka schedule property. The ka schedule property has been described in the schedule of the plaint. The petitioner filed an application for local investigation praying for an appointment of survey passed advocate commissioner.

After going through the points for local investigation this Court finds that the petitioner has sought for relayment of the ka and kha schedule

property, and to prepare a sketch map thereof. The petitioner has also sought for an opinion of the survey passed commissioner as to whether ka schedule property is a part and parcel of kha schedule property.

Considering the scope of the suit, this Court is of the considered view that the local inspection on the points sought for by the petitioner is not necessary for the purpose of elucidating any dispute involved between the parties in the said suit. It appears to this Court that the purpose of filing an application under Order 26 Rule 9 of the Code of Civil Procedure was to fish out evidence which is not permissible in law.

The learned trial judge assigned cogent reasons for rejecting such application.

This Court is not inclined to interfere with such order.

Accordingly, CO 2335 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.)