

C.O. 2631 OF 2023

15.07.2025

Sl no. 156

Ct no. 25

P.M.

Pabitra Kumar Maji & Ors.

- Vs -

Nemai Majhi.

Mr. Sourav Sen, Sr. Adv

Mr. Arunava Maiti

... for the petitioners

Mr. Souvik Das

.... For the opposite party

1. Affidavit of service filed by the petitioners is taken on record.
2. Present petition has been filed challenging the order dated 14th June, 2023 in Title Suit No. 57 of 2022 passed by learned Civil Judge (Junior Division), First Additional Court, Contai, Purba Medinipur whereby petition under Order 26 Rule 9 of CPC has been rejected.
3. In the petition under Order 26 Rule 9 CPC the petitioner has mentioned the following points for local inspection :

“A. To note down and take measurement of the area of the “A” schedule suit property including “B” schedule suit property and

drawn up sketch plan with boundary description.

B. To note down and inspect the nature and character of the “A” and “B” Schedule suit property and at present use as on what purpose and how many trees and names and structures are existing thereon.

C To note down whether “B” schedule suit property is exclusively used by the plaintiffs and under part of the “A” schedule suit property.

D. To note down the dag and khatian numbers on which the “A” and “B” schedule suit property is situated.

E. To note down whether the defendant has any right to use or claim the “B” Schedule suit property as his private passage as per Judgement and Decree by Solenama dated 11th day of April, 1950 in Title Suit No. 122 of 1949 before the learned 2nd Court of the Subordinate Judge at Midnapore.

F. To note down the local features if any to be pointed out by the parties at the time of local investigation.”

4. Learned counsel for the petitioner at the outset states on instruction that he does not press the points C and E for local inspection.

5. Learned counsel for the opposite party/defendant has fairly submitted that in this circumstances he has no objection to Survey Commission appointed for giving his report on point A, B, D and F.

6. In view of the submission made the order dated 14th June, 2023 is set aside. With the consent of the parties the survey commission be appointed by learned Trial Court with the following points for inspection :

“A. To note down and take measurement of the area of the “A” schedule suit property including “B” schedule suit property and drawn up sketch plan with boundary description.

B. To note down and inspect the nature and character of the “A” and “B” Schedule suit property and at present use as on what purpose and how many trees and names and structures are existing thereon.

D. To note down the dag and khatian numbers on which the “A” and “B” schedule suit property is situated.

F. To note down the local features if any to be pointed out by the parties at the time of local investigation.”

7. The expenses of survey commission shall be borne by the petitioner/plaintiff.

8. With these observations this petition is disposed of.

(Dinesh Kumar Sharma, J.)