

D/L- 30  
28/08/2025  
Ct. No.-6  
Aritra

**C.O. 3075 of 2025**

**Achhylal Sah  
Vs.  
Gopal Khamaru & Anr.**

Mr. Ranjit Mondal

....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.11 dated July 18, 2025 passed by the learned Civil Judge (Jr. Div.), 1<sup>st</sup> Court at Barasat in Title Suit No.64 of 2023.

By the order impugned the application under Order 26 Rule 9 of the Code of Civil Procedure stood allowed.

The learned advocate appearing for the petitioner submits that the application for local investigation was filed in order to collect the evidence.

The opposite party herein filed a suit for declaration of title in respect of A schedule property and for recovery of khas possession of B schedule property and for mandatory injunction dismantling the reservoir/septic tank and/or removing the unauthorised construction on the B schedule property.

After going through the averments made in the plaint this Court finds that the plaintiff/opposite party herein has made out a case of encroachment upon their property. A rough sketch map showing the encroached

portion has also been appended to the plaint. After going through the points for local investigation, this Court is of the considered view that appointment of an Investigation Commissioner on the points as mentioned in the schedule of the local investigation application is necessary for the purpose of elucidating the matter in dispute in the suit.

The learned trial judge assigned cogent reasons for allowing the application for local investigation.

This Court is not inclined to with such order impugned.

With the above observation, CO 3075 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.)***