

D/L- 12
17/09/2025
Ct. No.-6
Aritra

C.O. 3373 of 2025

**Sri Uttam Khanra & Anr.
Vs.
Sri Sushil Manna**

Mr. Sukanta Chakrabarty
Mr. Anindya Halder
Mr. Shaondeep Chakrabarty
Mr. Ronit Deyashi

....for the petitioners

This application under Article 227 of the Constitution of India is at the instance of the defendants and is directed against an order being No.29 dated July 31, 2025 passed by the learned Civil Judge (Sr. Div.), 3rd Court at Serampore, District-Hooghly in Title Suit No.411 of 2019.

By the order impugned, the application for local inspection filed by the defendant/petitioner herein was rejected.

Mr. Chakrabarty, learned advocate appearing for the petitioner submits that the petitioners are joint tenants in respect of two shop rooms each measuring about 88 sq.ft. total measuring about 176 sq.ft. but the eviction suit has been filed in respect of one shop room measuring about 90 sq.ft. only. He submits that the plaintiff/opposite party herein has alleged that the defendants have constructed a wall in order to divide one shop room into two parts. He submits that for the

purpose of elucidating such facts the local inspection is necessary.

It appears from the plaint that the opposite party has filed a suit for eviction of the petitioners herein in respect of one shop room measuring about 90 sq.ft. (east facing) comprised in R.S. Dag No.4638, R.S. Khatian No.813 under Mouza-Kumirmora within Police Station-Chanditala in the district of Hooghly.

The case made out in the plaint is that the predecessor-in-interest of the petitioners inducted the defendants as a tenant in respect of the shop room measuring about 90 sq feet (east facing) by dint of an agreement dated 01.10.2005. It is the further case of the petitioner that the opposite parties changed the purpose of tenancy by raising a partition wall of permanent structure from the middle of the shop room and continued the business of beauty parlour from one portion and jewelry business from the other portion.

The case of the petitioner in their written statement is that the defendant no.1 is in possession of the tenanted shop room measuring about 88 square feet and running the business of Jewellery ornaments therefrom and the defendant no.2 is in possession of a separate tenanted room measuring about 88 square feet and running the business of beauty parlour therefrom.

Thus the dispute is whether the petitioners are joint tenants in respect of one shop room or that the defendant no.1 and 2 are tenants in respect of one room

each measuring about 88 square feet are matters to be proved either by oral or document evidence and not by way of local inspection.

After going through the points for local inspection, this Court finds that one of the points is to note whether the rooms are sub-divided into two parts of 4 ft.6 inch x 10 ft. each or not. Local inspection on the points mentioned in the schedule of the application would not assist the Court in any manner in deciding the issues involved in the suit.

The purpose of filing the application is only to collect evidence which is not permissible.

For such reason, this Court holds that the points for local inspection are not necessary for the purpose of adjudication of the suit between the parties.

For all the reason as aforesaid, CO 3373 of 2025 stands dismissed without interfering with the order impugned.

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.)