

19.11.2025
Ct. No. 06
Sl. No.33
Cp

C.O. No. 3947 of 2025

Sri Utpal Majumder
Vs.
Smt. Bani Roy Choudhury & Anr.

Mr. Rajdeep Mantha
Mr. Amartya Basu

.....for the petitioner.

Mr. Satyam Mukherjee
Ms. Sayani Ahmed
Mr. Purnendu Shekhar Ghosh
Mr. Saibal Rakshit

.....for the opposite party no. 1.

This application has been filed challenging an order dated September 17, 2025, passed by the learned Civil Judge (Senior Division), 2nd Court at Barasat, in Title Suit No. 584 of 2024. By the order impugned, the learned court rejected an application under Order 39 Rule 7 of the Code of Civil Procedure. The learned court was of the view that the points for local inspection were not relevant for adjudication of the suit. The points for local inspection are quoted below:-

“I. Identify the suit property.

II. Whether there is/are any existing residential unit noticeable over the schedule property? If yes, mention specifically the number of floors.

III. How many rooms and the occupiers of the said rooms in the ground floor?

IV. Under whose possession the roof is?

V. Mention local fixtures and features, if any, noticeable in the ground floor at the time of local inspection.

VI. Rough sketch map (not in scale).”

Mr. Mantha, learned advocate appearing on behalf of the petitioner, submits that local inspection is necessary in order to ascertain the exact nature and character of the suit property, its local features, the fixtures inside the property, the person who is in possession of the rooms etc., so that the court can ascertain the status of the property. Such inspection is necessary in order to elucidate all doubts and disputes with regard to the possession of the property, specially because the defendant no. 1 had already violated the order of ad interim injunction and had broken open the lock of the plaintiff and illegally and forcefully tried to take possession of the defendant’s portion of the property.

Mr. Mukherjee, learned advocate for the opposite party no. 1, submits that the opposite parties have been in possession of the ground floor as per an amicable arrangement between the plaintiff and the defendants.

Such submission is disputed by Mr. Mantha.

In my view, the petitioner has already been granted an order of police help upon the court noting that there was a violation of the ad interim order of injunction. Necessary protection through police help has already been granted. At this stage, the points for local inspection are not relevant for ascertaining whether there is any

violation or not. Such issue has already attained finality with the grant of an order of police help.

In a partition suit, the petitioner seeks declaration of his share in the property in question and, as such, who are in possession of the property, the number of rooms in the property, whether there is a residential house on the same, what are the local features of the property, are irrelevant for the adjudication of the suit. The application was rightly rejected by the learned court.

Accordingly, the revisional application is dismissed.

Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)