

21.11.2025

Sl. No.300.

Mithun

Ct.No.29.

CO 3888 of 2024

Nandalal Singha Roy & Ors.

Vs.

Milan Singha Roy & Ors.

Mr.Partha Pratim Roy,
Mr. Anirban Das,
Ms. Poulami Chakraborty

...for the petitioners

Mr. Subha Pathak,
Ms. Yamini Tiwari

...for the opposite party

Being aggrieved and dissatisfied with the order dated 23d of August, 2024 passed in Title Suit No.684 of 2023, present application has been preferred by the petitioners.

By the impugned order learned Court below rejected plaintiff/petitioners' application under Order 39 Rule 7 observing that by way of Local Inspection Commission, the plaintiff intended to bring the nature and character of the suit properties and whether there is any residential house upon the suit property or not and numbers of rooms, kitchen, bathroom, courtyard and dining places situated over there, but after perusal of the counterclaim and the plaint as well as the written statement, it appeared to the Court below that neither parties had raised any dispute about the nature of the

suit property or the house situated upon it nor there is any dispute relating to usage of any room by the parties of the suit and therefore he came to the conclusion that Local Inspection Commission will no way help in proper adjudication of the suit.

On perusal of the prayer made in Paragraph 13 of the plaint and also on perusal of the prayer made in the counterclaim at Paragraph 51 of defendants pleading, I do not find any perversity in the order impugned which may call for interference by this High Court. It clearly suggests from the prayer made therein that the real controversy between the parties is about the extent of the property in respect of which the parties have made their allegations against each other.

Learned Counsel for the petitioners further submits that if this Court is also of the view that Local Inspection Commission will not serve the purpose of the parties for adjudication of the real dispute, liberty may be given to pray for Local Investigation Commission before the Court below.

In such view of the matter, C.O.3888 of 2024 is dismissed. However, liberty is given to the petitioners to make prayer before the Court below under Order 26 Rule 9 CPC if he so instructed and in the event of filing such application, the Court below will dispose of such

application in accordance with merit without being influenced by any observation made herein.

Parties to act on a server copy of this order duly collected from the official website of the Hon'ble High Court, Calcutta.

(Dr. Ajoy Kumar Mukherjee, J.)