

Item No. 11
01.12.2025
Court. No. 6
GB

C.O. 4035 of 2025

Md. Shorab Ansari @ Sohrab Ansari
Vs.
Sri Om Prakash Sharma & Ors.

Mr. K.R. Chatterjee

...for the Petitioner.

1. This is an application against an order September 12, 2025, passed by the learned Civil Judge (Junior Division), Additional Court at Asansol, District – Paschim Burdwan in Title Suit No.614 of 2021.
2. By the order impugned, the learned court rejected an application under Order 26 Rule 9 of the Code of Civil Procedure. The petitioner filed an application for local investigation. The learned court was of the view that in the suit for permanent injunction, there was no allegation that encroachment had taken place. There was no denial of the right, title and interest of the petitioner in the written statement, thus the local investigation should not be permitted.
3. Under such circumstances, the question of allowing local investigation does not arise. Local investigation is necessary when a court is required to elucidate any doubt which is required to be resolved, for proper adjudication of the suit. The plaint case clearly states the boundaries and the schedule of the property. According to the plaintiff, the defendants had a plastic factory towards the western side of the plaintiff's land. The defendants were levelling their land and were

trying to encroach over two Cottahs of the plaintiff's land. Upon strong objection, the defendants withdrew but, they started threatening the plaintiff.

4. Under such circumstances, the suit was filed for a decree of permanent injunction, restraining the defendants from entering into the scheduled property and from raising a boundary wall over the scheduled property. The schedule of the property is quoted below:-

“SCHEDULE-

Within the District of Burdwan now Paschim Bardhaman, Ps-Kulti, Sub-Division and Addl. Dist. Sub-Registry office Asansol now Kolti, Mouza-Baltoria, J.L. No-13, L.R. Khatian No-113 & 149 now Khatian No-492, Plot No-3 (Three) Class of land Danga, measuring 12 (Twelve) Cottahs of land is sold by this deed.

Which is butted and bounded:- On the North-Land of Plot No-1177 of Mouza Ram Nagar, On the South-Land of Manberia Mouza, on the East-Land of Santosh Kr. Gouda on Plot No-3 (P) purchased on this day by an another registered sale deed AND 6'-0" wide common passage, On the West-Land of Manberia Mouza.”

5. The points for local investigation are quoted below:-

*“a) To note, identify the location of the suit plot and survey the suit plot as stated in the plaint.
b) To note, the measurement of the suit plot with boundary.
c) To note, whether the suit property encroached by the defendants or not?”*

6. The court was correct in not allowing local investigation. The plaintiff has to prove his positive case of alleged threat of encroachment. The plaintiff has to prove ownership and title over the land on the basis of documents. The plaintiff is aware of what he

has purchased and is enjoying as owner thereof. The area, boundaries, etc., are within the knowledge of the plaintiff. This is not a boundary dispute. The court cannot allow the plaintiff to fish out evidence.

7. Under such circumstances, there is no requirement for local investigation.
8. Accordingly, the application is dismissed.
9. Parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)