

10.02.2025

Sl. No.: 140
Court No.30
BM

C.O. 3996 of 2024

Abul Bulganin

Vs.

Abul Jaman Mondal & Ors.

Mr. Partha Pratim Roy
Mr. Anirban Das
Mr. Samrat Chakraborty

... for the petitioner

Mr. Koustav Bagchi
Ms. Sinthia Bala
Mr. Debayan Ghosh
Ms. Preety Kar

... for the private opposite parties

1. The present revisional application has been preferred against an order being dated 31.07.2024 (wrongly written as 31.07.2023) passed by the Civil Judge, (Junior Division), 2nd Court at Rampurhat, Birbhum in Title Suit No.145 of 2022.

2. On being served the opposite parties is being represented.

3. By the order under revision, the trial court held as follows :-

“ Upon perusal of the local inspection report, this court finds that the learned Inspection Commissioner reported in respect of the point no.1 that the plot no.742 is totally unoccupied except for a part of the land measuring 10.3 ft. Of north to south and 6 ft east to west, which is tin roof house, used by the plaintiff for tailoring business and there is an electric meter on the plaintiff's name. Though the Ld. Commissioner reported that the

said tin roof house used by the plaintiff for tailoring... and there is an electric meter in the name of the plaintiff but in point no.1 the Ld. Commissioner was not asked to report that who is in possession of the suit property. Further, the Ld. Commissioner has not mentioned how he came to know that the existing electric meter stands in the name of the plaintiff. So, this report of the Ld. Inspection Commissioner is beyond the periphery of the commission work. Hence, this report is not at all reliable.

In view of the above facts, this court is not inclined to allow the prayer of the plaintiff for repairing of the mud houses without holding that he is in actual possession of the said mud house.

Thus, the petition u/s 151 CPC is rejected on contest without any cost.

Fix 04.09.2024 for framing of issues.

*Sd/-
Civil Judge(Jr. Divn.), 2nd Court,
Rampurhat, Birbhum”*

4. It appears that the learned Inspection Commissioner found that in the disputed property, the plaintiff petitioner herein has a tin roof house which he used for tailoring business. The electric meter also stands in the name of the plaintiff.

5. The petitioner's prayer was only for repairing of the said structure to make it habitable. The learned trial court's findings in rejecting the application is clearly not in accordance with law and against the interest of justice and accordingly, the

said order under revision dated 31.07.2024 (wrongly written as 31.07.2023) passed by the Civil Judge, (Junior Division), 2nd Court at Rampurhat, Birbhum in Title Suit No.145 of 2022, is set aside.

6. The application under Section 151 of CPC stands allowed.

7. The plaintiff/petitioner is permitted to repair his Tin roof house only to the extent to make it habitable and will not make any construction other than what is required to make it habitable in present condition.

8. The application is accordingly allowed

9. The revisional application stands disposed of.

10. Urgent Xerox certified copies of this order, if applied for, shall be supplied to the learned counsel for the parties as expeditiously as possible, in compliance of usual formalities.

(Shampa Dutt (Paul), J.)