

25.06.2025
Item No.17
Ct. No. 30
Aloke

CO 4049 of 2024
Adalat Ali Khan @ Adalat Khan
Vs.
Joynal Abedin Khan & Ors.

Mr. Saunak Bhattacharjee
Mr. Sounak Mondal
Mr. Abhirup Halder
... for the petitioner
Mr. Srikanta Dutta
Mr. Sk. Ainuddin Ahammad
... for the opposite parties

1. Learned counsels for both the parties have submitted that they are in possession of the selfsame plot. As such, there may be disturbance caused if both the parties cultivate the same plot at the same time.
2. It is submitted by the learned counsel for the petitioner that the opposite party has constructed a house in the portion which is in his possession in respect of the same plot but the petitioner's portion in his possession is vacant and he is in a position to cultivate the same.
3. Local inspection was conducted in respect of the said plot and the final report was submitted before the trial Court.
4. On perusal of the said report it appears that though the nature of the land has been described in the report, the possession of the respective parties has not been categorically stated by the Commissioner.

5. The learned Commissioner has in detail described the nature of the suit properties but not in respect of the possession of the parties to the suit.

6. Considering the said facts and circumstances, the trial Court is directed to direct the inspection Commissioner to conduct a further inspection on payment of fees to be paid equally by the parties and submit a report stating about the respective possession of the parties in the disputed plot.

7. And till the possession is specified by the local Commissioner in a fresh report, both the parties to the suit are restrained from cultivating the said land.

8. The learned trial Court shall consider the application under Section 151 CPC filed by both the parties afresh after the further report is submitted by the local Commissioner as directed and then pass necessary orders for cultivation.

9. The civil revisional application is disposed of.

10. Connected application, if any, stands disposed of.

11. Interim order, if any, stands vacated.

12. Urgent Photostat certified copy of this order, if applied for, be given to the parties, upon usual undertakings.

(Shampa Dutt (Paul), J.)