

**Item No.2**  
08.09.2025  
Court. No. 1  
SP

**Calcutta High Court  
In the Circuit Bench at Jalpaiguri**

CO/169/2025

PIYARUDDIN MD. @MD.PIARUDDIN  
AND ANR  
VS  
AJAY ROY

*Mr. Kunaljit Bhattacharyya,  
Mr. Haider Ali,  
Mr. Satyam Sardar,  
Mr. A. Sah.*

*... for the petitioners.*

1. This revisional application arises out of an order dated January 28, 2025 passed by the learned Civil Judge Senior Division, Jalpaiguri, in Title Suit No.39 of 2016. The petitioner is the defendant no.2 who prayed for local investigation by a survey passed Commissioner under Order 26 Rule 9 of the Code of Civil Procedure.
2. The petitioner is defendant no.2 in the suit for declaration of title and recovery of possession. According to the petitioner, the investigation was required on two points. (a) Whether the subject land mentioned in schedule A was situated in plot no. 171 and 172.  
  
(b) To investigate in which side of plot no.172 (North, South or East), plot no.171 was situated.

3. It appears from the records that a Commissioner had been appointed for local investigation at the instance of the plaintiff and the report indicated that the suit land was situated on plot no.172 and not plot no.171. Thus, the first issue on which the defendant no.2/petitioner wanted an investigation, had already been answered.
4. The Trial Court further held that the question as to in which direction of plot no.172, plot no.171 was situated, was not relevant for the adjudication of the dispute between the parties.
5. Mr. Bhattacharyya, learned advocate for the petitioner submits that the defendant no.2 also claims right, title and interest over a portion of the suit land and as such the investigation was necessary.
6. Considered the written statement. The case of the petitioner is that he had acquired a piece of land measuring 2 katha and 2 chhatak from Debilal Singha and Akhen Singha @ Akhil Singha with specific boundaries in the north, south, east and west. As such, the petitioner claims to be a co-sharer of the suit land by way of such purchase. He claims to have constructed a residential structure on the land. The

relevant paragraph of the written statement is quoted below:

*“The true fact is that the defendant no.2 has acquired a piece of land measuring 2 katha 2 chhatak from Debilal Singha and Akhen Singha @ Akhil Singha by way of purchase with specific boundary in the north – Resturent of Piku Babu, south,- Rest Land of Vendor, East – Land of Subir Sarkar and West – 20 ft Pucca Road vide reg deed no. 3117 of the year 2015 vide vol no.705, Book No. 1, Pages 23949 to 23963 registered at ADSR Rajganj, Jalpaiguri and become the co-sharer of the suit land by way of purchase and has his residential structure in the said land.”*

7. The petitioner has categorically claimed to be the owner of 2 kathas 2 chhataks area on the suit land, over which he also constructed his residential structure. He has mentioned specific boundaries.
8. Under such circumstances, the defendant no.2 can prove his title on the basis of his deed and the direction of plot no.171 vis-a-vis plot no.172 is not at all relevant.
9. The revisional application fails. The order impugned is not interfered with.
10. CO 169 of 2025 is accordingly disposed of.

**(Shampa Sarkar, J.)**