

N.22Sl
151/CL

CO 873 of 2026

Mr. Sannyasi Maur & Ors.
v.
Mr. Uttam Ghosh & Ors.

16.06.26
DL-18
Ct-06
(S.R.)

Mr. Biswarup Chatterjee ... for the petitioners.

1. Affidavit of service filed in Court today is taken on record.
2. It is submitted by the learned advocate appearing for the petitioners that the opposite parties have been served. However, none appears for the opposite parties.
3. It is noted that on May 20, 2026 too when the matter was taken up last, the opposite parties had remained unrepresented.
4. This revisional application is directed against an order dated February 21, 2026 passed by the learned Civil Judge (Junior Division) Ghatal at Paschim Medinipur whereby the petitioners' application for local investigation under Order 26 Rule 9 of the Code of Civil Procedure, 1908 has been rejected. The impugned order reveals that the petitioners' application has been rejected on the ground that the defendants have admitted the plaintiffs' ownership and there is lack of a *bona fide* boundary dispute.
5. Mr. Chatterjee, learned advocate appearing for the petitioners has taken this Court through the plaint

(especially paragraph 8 thereof) and the written statement (especially paragraph 13 thereof) to demonstrate that the petitioners' case as regards encroachment and boundary dispute has been denied by the defendants.

6. Having heard Mr. Chatterjee and having perused the material on record especially paragraph 8 of the plaint and paragraph 13 of the written statement, it appears that the learned Trial Court has incorrectly observed that the defendants have admitted the plaintiffs' ownership and there is lack of a boundary dispute. Since the order appears to have been passed without considering the material on record, therefore, the same deserves to be interfered with.
7. Accordingly, the order dated February 21, 2026 is set aside. The matter is remitted to the file of the learned Trial Court for fresh adjudication on merits upon hearing both the parties, in accordance with law. The learned Trial Court is requested to rehear the said application under Order 26 Rule 9 and pass appropriate orders upon considering the material on record as well as the submissions made by the parties.
8. With the aforesaid observations, CO 873 of 2026 stands disposed of. No costs.
9. Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible.

(Om Narayan Rai, J.)

