

10.04.2026

Ct. No.30

SL No.**29**

MKP

CO 3529 of 2024

Sahid Alam

Vs.

Masud Mondal And Ors.

Mr. Dhananjay Banerjee
Mr. Praloy Hazra
Mr. Partha Sarathi Mishra
Mr. Archan Dutta

.....for the Petitioner

Mr. Sandip Ghosh
Mr. Partha Sarkar
Ms. Jayashree Dari

.....for the Private Respondent
nos. 1 and 2.

- 1.** Affidavit of service filed be kept with the record.
- 2.** The writ application has been preferred challenging an order dated 06.08.2024 passed by the Learned Civil Judge (Junior Division), Kalna, Purba Bardhaman, in Title Suit No.276 of 2023.
- 3.** Vide the impugned order, the Learned Trial Court has allowed an application under Order 26 Rule 9 C.P.C., filed by the defendant/opposite party herein.

4. Being aggrieved that the said points include fishing out evidence, the revision has been preferred.

5. Notice of the Court has been brought to the application under Order 26 Rule 9 C.P.C. wherein, the points for Investigation Commission are as follows:

1) To identify the suit property in presence of both the parties by the help of R.S.Map?

2) Whether the suit A schedule property situated eastern side of B schedule property?

3) Whether there is iron gate installed in the front portion of the A schedule property i.e. towards the Memari-Kalna metal road for egress and ingress to the suit A schedule property?

4)Whether measurement of the B schedule property as follows :-

Southern side i.e. towards Memari - Kalna metal road is 25' 6", Northern side 25' 6", Western and Eastern side 72' 6".

5) Whether these defendants used to possess the A schedule property as per their title deeds and also give a

measurement of the A schedule property as per survey sketch map annexed with the written statement along with counter claim?

6) Any other points should be mentioned which draw the attention of Ld. investigation commission at the time of survey commission work.

- 6.** On perusal of the said points, to be investigated as permitted by the Trial Court, it appears that 1st part of point nos.5: *“1)To identify the suit property in presence of both the parties by the help of R.S.Map?”* and 6 is not in accordance with law and cannot be subject to an Investigation by a Commissioner.
- 7.** Accordingly, the impugned order dated dated 06.08.2024 passed by the Court of the Learned Civil Judge (Junior Division), Kalna, Purba Bardhaman, is modified to the extent that investigation shall be conducted only in respect of point nos.1 to and 4 and 2nd part of point no.5:*“2) Whether the suit A schedule property situated eastern side of B schedule property?”* The report be submitted accordingly.

- 8.** The civil revision stands **disposed of**.
- 9.** Applications, if any, connected thereto stand disposed of consequently.
- 10.** Interim order, if any, stands vacated.
- 11.** Photostat certified copy of this order, if applied for, be given to the parties on priority basis upon compliance of all formalities.

[Shampa Dutt(Paul),J.]