

06.05.2026
Item No.5 (DL)
Court No.06
AJ.

**IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION**

C.O. 237 of 2026

**Mohammad Bablu Mistri & Ors.
-Vs-
Akbar Ali Mistri & Ors.**

Ms. Shila Sarkar,
Mr. Shibasis Ghosh,
Mr. Souvik Das.
.....for the petitioners.

Mr. Arup Krishna Das,
Md. Giasuddin Molla,
Mr. Utsab Ghatak,
Mr. Rajarshi Ghosh,
Mr. Abdus Salam.
.....for the opposite parties.

1. Affidavit of service filed in Court today is taken on record.

2. This revisional is directed against an order dated November 17, 2025 passed by the learned Civil Judge (Junior Division), 2nd Court at Basirhat in Misc. Case No. 59 of 2025 arising out of Title Execution Case No. 4 of 2022.

3. Title Suit No. 141 of 2004 had been instituted by the opposite parties for a decree of declaration of title, confirmation of possession and khas possession and injunction before the learned Civil Judge (Junior Division), 2nd Court at Basirhat. The said suit was decreed on March 25, 2022. Such decree has been put into execution by filing Title Execution Case No. 4 of 2022. In the said Title Execution case, an application under Order XXI

Rule 97 of the Code of Civil Procedure, 1908 has been filed by the petitioners which has been registered as Misc. Case No. 59 of 2025. In the said Misc Case, the petitioners prayed for appointment of a Survey Passed Commissioner inter alia for identification of the suit property especially Dag No. 2013/2114.

4. The said application was disposed of by the learned Executing Court by an order dated November 17, 2025 by appointing an Advocate Commissioner instead of a Survey Passed Commissioner. Feeling aggrieved thereby, the petitioners have approached this Court by filing C.O. 237 of 2026.

5. Ms. Sarkar, learned Advocate appearing for the petitioners submits that identification of a suit plot of land would require forensic knowledge and for such purpose, an Advocate Commissioner would not be suitable at all.

6. Mr. Das, learned Advocate appearing for the opposite parties fairly submits that the objection raised by Ms. Sarkar to the appointment of an Advocate Commissioner is quite justified and a survey passed commissioner may be appointed.

7. In view the aforesaid submissions, the order impugned dated November 17, 2025 is set aside.

8. The learned Civil Judge (Junior Division), 2nd Court at Basirhat is requested to appoint a

Survey Passed Commissioner for the purpose of carrying out the investigation in terms of the application filed by the petitioners upon hearing the parties as expeditiously as possible and preferably within a period of one month from the date of communication of this order.

9. With the above observations, C.O. 237 of 2026 stands disposed of. There shall be no order as to costs.

10. Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Om Narayan Rai, J.)