

18.05.2026  
Ct. No.6  
Sl. No.5  
skg

**C.O. 396 of 2025**

**Sk. Sahanizam Ali & Ors.**  
**Vs.**  
**Abdul Rahaman Mallick & Anr.**

Mr. Saurabh Guhathakurata,  
Mr. Tarak Nath Sardar,  
Mr. Abhratanu Sarkar,

...for the Petitioners

1. This revisional application is directed against the order dated July 23, 2024 passed in Title Suit No. 222 of 2022 whereby an Advocate Commissioner has been appointed under Order 39 Rule 7 of the Code of Civil Procedure, 1908 to report as regards measurement of additional construction made by the defendant no.2 beyond the Panchayat Plan as allowed by the said learned Court vide order dated September 21, 2023 and also to draw sketch map showing such construction.
2. Mr. Guhathakurata, learned Advocate appearing for the petitioner submits that the present case is one of encroachment and therefore such an inspection could not have been ordered to be conducted by an Advocate Commissioner inasmuch as it would require a certain amount of technical and special knowledge.
3. Prima facie, this Court is satisfied that an arguable case has been made out by Mr. Guhathakarata

inasmuch as a report as regards additional construction and encroachment along with sketch map showing specific measurement should be done by a survey passed commissioner.

4. The petitioner shall serve a copy of the revisional application along with notice to the opposite parties intimating that the matter shall be taken up next on June 16, 2026 as “Upgraded Motion”.
5. In view of the arguable case made out as aforesaid there shall be a stay of operation of the order impugned till the end of June, 2026.

**(Om Narayan Rai, J.)**