

IN THE HIGH COURT AT CALCUTTA
[CIRCUIT BENCH AT PORT BLAIR]

CO/5/2026

M/s. Siddhartha Resort and Foods Pvt. Ltd.

Vs.

Smti. Sumitra Mondal and Others

Ms. G. Mini for the petitioner

Mr. Ananda Halder ... for the Opposite party Nos.1 & 2

Mr. Arun S Kumar ... for the Opposite party No.3 to 7

January 30, 2026
[SR]
Item No.1

This revisional application has been filed challenging an order dated December 15, 2025, whereby the learned Trial Court rejected the preliminary point of non-maintainability of the suit raised by the defendant in the suit, being the present petitioner.

The Opposite Parties Nos. 1(a) to 1(e) and 2 filed a suit being Other Suit No.79 of 2022 before the learned Civil Judge Senior Division, South Andaman, Port Blair praying for, *inter alia*, the following reliefs:

- (a) A decree be passed declaring the present manufactured sketch map of land bearing survey No.285 and 286 total area 2.02 hecets, situated at Wandoor Village, under Ferrargunj Tehsil, South Andaman District as null and void.
- (b) A decree for perpetual injunction against the defendants restraining the defendants not to interfere into the long and peaceful possession of the plaintiffs over the suit land bearing survey No.1/P, area 2.02 hecets situated at Wandoor village, under Ferrargunj Tehsil, South Andaman District.

The defendant in the suit raised a point that the suit is not maintainable in view of Regulations 49(a), 29(1) (e) and 204

of the Andaman and Nicobar Islands Land Revenue and Land Reforms Regulations, 1966 (in short '1996 Regulations').

The learned Trial Court refused to entertain such contention on the ground that the defendant had already filed written statement. Challenging such order of rejection of the contention of the defendant, the defendant had approached this Court earlier by way of a civil revisional application. By an order dated September 04, 2025, a learned Judge of this Court disposed of the application by directing the learned Trial Judge to frame a preliminary issue under Order 14 Rule 2 of the Code of Civil Procedure with regard to the maintainability of the suit and dispose of the same as expeditiously as possible.

Pursuant to such order, the learned Trial Court heard the parties on the preliminary issue of maintainability of the suit and by an order dated December 15, 2025 rejected the contention of the defendant and held the suit to be maintainable.

The operative portion of the order reads as follows:

"Perused the instant application, the written objection and the documents produced before this Court and order of the Hon'ble High Court Calcutta. I would like to say that the main contention was that the defendants have obtained possession of the suit property by managing a manufactured sketch map. Therefore, this Court has to see whether the impugned sketch map really a manufactured or not. *Ipsso facto*, it is not directly challenging the procedure or orders passed by the Settlement Officer. In the above event, to look in to the matter appreciation of evidence is must.

Considering the facts and circumstances and also the legal preposition, I think this Court does not sans jurisdiction to entertain this case and the objection raised by the defendant no.6 is premature.

Considering the above, the application is hereby rejected on contest without any order as to cost.”

It is this order that is assailed by the defendant in the suit by way of the present application.

Learned advocate for the petitioner has drawn my attention to Regulations 28(1)(e), 49(a) and 204 of the 1966 Regulations , which read as follows:

“28(1) Save as otherwise in this Regulation, an appeal shall lie from every original order passed under This Regulation or the rules made thereunder:-

- (a)....
- (b)....
- (c)....
- (d)....

(e) if such order is passed by Settlement Officer, whether exercising the powers of Settlement Officer or the powers of a Deputy Commissioner in connection with any settlement operation, to the Settlement Commissioner.

“49 Subject to the rules made under this Regulation, the Settlement Officer may –

- (a) take measurements of the land to which the revenue survey extends and construct such number of survey marks thereon as may be necessary.”
- (b)
- (c)”

204. No suit or other proceeding shall, unless otherwise expressly provided in this Regulation, lie or be instituted in any civil court with respect to any matter arising under and provided for by this Regulation.”

Learned advocate has argued that in view of the aforesaid provisions, there is a bar to maintainability of the suit. The plaintiffs were at liberty to approach the Settlement Commissioner by way an appeal, as provided in the aforesaid Regulations.

On the contrary, learned advocate for the opposite parties/plaintiffs has argued that the bar in the Regulations does not operate. No order has been passed by the Settlement Officer which can be taken up by way of an appeal before the Settlement Commissioner or any other authority. The relevant sketch map has been illegally tampered with by the present petitioner. The officers of the land department have in no manner corrected the sketch map. The sketch map relied upon by the petitioner is a manufactured and forged documents. Hence, a declaration has been sought for in the suit that the concerned sketch map is null and void.

Learned counsel for the opposite parties/plaintiffs also draws my attention to Regulation 86 of the 1966 Regulation which reads as follows:

“86. The civil courts shall have jurisdiction to decide any dispute to which the Government is not a party relating to any right which is recorded in the record of rights.”

Relying on Regulation 86, learned advocate submits that a civil court has jurisdiction to decide the suit filed by his clients. Although the government officials are parties to the suit, they are profoma defendants and no relief has been sought for against them.

Having considered the rival contentions of the parties, I am of the view that there is some substance in the contention advanced by learned advocate for the opposite parties.

Regulation 86 clearly reserves the right to a civil court to decide any dispute to which Government is not a party, relating to any right which is recorded in the record of rights.

In the present case, the government is not a party to the dispute between the petitioner and the opposite parties/plaintiffs. No relief has been claimed against the government. The dispute between the parties also in a way pertains to a right which is recorded in the record of rights. The word 'relating to' is of wide amplitude.

I am unable to agree with the contention of learned advocate for the petitioner that Regulations 28(1)(e), 49(a) and 204 operate to bar the suit filed by the opposite parties/plaintiffs. Further, the relief claimed by the plaintiff in the suit cannot be granted by the Settlement Commissioner.

I do not find any such glaring illegality or procedural impropriety in the order under revision as would persuade me to interfere.

One must keep in mind that while exercising the supervisory jurisdiction under Article 227 of the Constitution of India, the High Court does not act an Appellate Authority. The High Court does not correct mere errors of law or errors of fact in the order impugned. Only when the order of the Tribunal or subordinate Court is wholly illegal or perverse or without jurisdiction or where manifest injustice will be caused to a party if the High Court does not interfere, the High Court exercises its jurisdiction under Article 227. It is settled law that such jurisdiction has to be exercised sparingly and cautiously.

In the present case, I do not find that the petitioner has made out a case for exercise of this Court's jurisdiction under Article 227 of the Constitution of India. I make it clear that I

have not touched the merits of the case. The petitioner will be at liberty to urge all points on the merits of the case before the learned Trial Court.

CO/5/2026 is disposed of.

Parties to act on the server copy of this order downloaded from the official website of this Court.

(Arijit Banerjee, J.)