

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

CO/39/2025

Irshad Mujeeb and Others

Vs.

Smti. Farida Siddique and Others

Ms. Supreet Sharma ... for the petitioner/plaintiff

Mr. N. A. Khan ... for the respondent/
Opposite party

July 09, 2025
[SR]
Item No.2

By filing this revisional application, the plaintiff/petitioner challenges the order dated July 1, 2025, passed in Title Suit No. 88 of 2019, whereby the learned Judge rejected the application filed by the plaintiff/petitioner under Order 26 Rule 9 of the Code of Civil Procedure, 1908.

It is an admitted position that Title Suit No. 88 of 2019 is a suit for partition, and no preliminary decree has been passed as yet. The plaintiff/petitioner had filed an application under Order 26 Rule 9 CPC seeking appointment of a Commissioner for the purpose of local inspection on the following points:

- a) Whether the land bearing Survey No. 925/1, measuring 330 sq. mtrs., touches the boundary of the restricted Naval area/Vijay Baug?*
- b) Whether the land bearing Survey No. 925/1 is level or not?*
- c) Whether the land bearing Survey No. 925/1 is suitable for construction of a residential house?*
- d) Whether building permission from the Port Blair Municipal Council can be granted for construction of a house in view of the land's location adjacent to Vijay Baug/restricted Naval area?*

e) *Whether earth-filling is required for the purpose of constructing a residential house?*

In my view, the points on which the appointment of a Commissioner was sought fall outside the scope of the present partition suit at this stage, especially since the preliminary decree has not yet been passed.

Accordingly, I find no merit in this revisional application. CO/39/2025 is, therefore, dismissed.

(Kausik Chanda, J.)