

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

CO/60/2025

Smti. S. Vijaya

Vs

Smti. Ram Kumari and Another

Mr. Gopala Binnu Kumar ... for the petitioner

Ms. R. Kritika ... for the Opposite parties

February 19, 2026
[AKB]
Item No.20

This revisional application has been filed under Article 227 of the Constitution of India challenging the correctness and propriety of the impugned order dated 26.08.2025 passed by the Civil Judge, Senior Division, Port Blair in Title Suit No. 149 of 2011.

By the said impugned order, the learned Trial Court rejected the application filed by the plaintiff under Order 26 Rule 9 of the Code of Civil Procedure, wherein the plaintiff has prayed for inspection of the land by appointing a commissioner to ascertain the actual present position of the property involved in the suit.

It is submitted by the learned counsel appearing on behalf of the petitioner that the learned Trial Court wrongly held in its order while rejecting the application filed by the plaintiff that earlier an application under Order 6 Rule 17 of the Code of Civil Procedure was filed by the plaintiff for seeking amendment of the plaint with analogous pleading which was rejected by the Trial Court after contesting hearing vide order

dated 11.09.2024, although the said application was admittedly filed by the defendant for amendment of written statement.

Having heard the submission of the rival parties, this court finds application under Order 6 Rule 17 was admittedly filed by the defendant for amendment of written statement but the trial court wrong observed otherwise. The Trial court further observed that the plaintiff had preferred the application under Order 26 Rule 9 in order to try his luck, which he has missed on the previous occasion.

Impugned order is based on wrong observation and without considering the actual facts resulted palpable wrong findings, which calls for inference by this court.

Consequently, Impugned order dated 26.08.2025 passed by the Trial court is, thus, set aside and remanded back to the learned Trial Court to decide the same on merits considering the stage of the proceeding and come to a final conclusion as expeditiously as possible without granting any unnecessary adjournment.

It is made clear that this court has not entered into the merits of the application filed under order 26 rule 9 as such the Trial court shall decide the same independently and with being influenced by any of the observations, whatsoever made by this court herein above.

With the above observation **CO/60/2025** is disposed of.

All parties shall act on the server copy, downloaded from the website of the Hon'ble High Court.

(Ajay Kumar Gupta, J.)