

Sl. A 138  
24.12.2014.  
S.d.

**C O 1184 of 2014**

*Monoj Bhakat @ Monoj Kumar Bhakat*  
*-versus-*  
*Krishna Nath Ghosh and others.*

Mr. Anit Kumar Rakshit  
....for the petitioner.

The grievance of the plaintiff in a suit seeking a declaration of the joint rights of the parties to an immovable property is that an application under Order XXVI Rule 9 of the Code has been declined by the trial court.

It is evident from the order impugned dated February 14, 2014 that the trial court observed that the facts did not warrant the appointment of a survey commissioner at that stage of the proceedings.

In view of the relevant observation in the order impugned and since the petitioning plaintiff's right to seek local investigation has not been prohibited at a subsequent stage, CO 1184 of 2014 is disposed of without interfering with the order impugned dated February 14, 2014 but by leaving the plaintiff free to apply for local

investigation if the oral evidence of the parties warrant the same. If such application is filed at a subsequent stage, the trial court will consider the same in accordance with law uninfluenced by the order impugned herein.

There will be no order as to costs.

Urgent certified website copies of this order, if applied for, be made available to the parties upon compliance of the requisite formalities.

(Sanjib Banerjee, J.)