

08.07.2026
Sl. 10
Subadip
Ct.No.-4

**CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
APPELLATE SIDE**

CO 68 of 2026

**BIJAY KRISHNA PAUL
VS
PARIMAL LOGUN**

Mr. Sourav Ganguly,
Ms. Rishita Chakraborty
...for the petitioner

Mr. Kalipada Das
...for the respondent

1. The revisional application has been filed under Article 227 of the Constitution of India, 1950 challenging the order dated 16.07.2025 passed by the Appellate Court, i.e., learned Additional District Judge, Alipurduar in Title Appeal No. 6 of 2023 arising out of Title Suit No. 96 of 2017, whereby the learned Trial Court dismissed the suit on contest against the defendant/petitioner without any order as to costs.

2. By the said order impugned, the Appellate Court rejected the application dated 29.11.2024 filed under Order 41 Rule 27 Code of Civil Procedure by the petitioner praying for adducing additional evidence for proper and effective disposal of the appeal.

3. Learned Advocate for the petitioner submits that the learned court did not assign any reason while rejecting such application. The application could have been decided at the time of final hearing of the appeal because the plaintiff/appellant had filed the suit for eviction of the respondent and the same was dismissed, *inter alia*, observing therein that the plaintiff/petitioner failed to prove relevant documents such as tenancy agreement, written undertaking etc. and one of those documents was Marked Exhibit 'Y' for identification. An opportunity ought to be given for adducing additional evidence. Therefore, the same is liable to be set aside.

4. On the other hand, learned counsel appearing on behalf of the opposite party submits that the impugned order is well reasoned and the same was rejected in accordance with law. The appellant failed to satisfy the Appellate Court with sufficient reason for adducing evidence as prayed for, that is, tenancy agreement and the written undertaking dated 28.06.2011 and why same was not exhibited during trial.

5. Having heard the submissions and on perusal of the impugned order, this Court finds the appellant has filed an application under Order 41 Rule 27 of the CPC praying for adducing additional evidence in an appellate stage. The Court should have given opportunity to file additional document for proper and effective disposal after hearing both sides even at the time of final hearing of the appeal, the said exercise has not been done by the Appellate Court rather rejected the same. The order impugned itself reflects no reason assigned while rejecting. The same is cryptic one. Therefore, such order cannot sustain in law. Therefore, the same is hereby set aside.

6. Setting aside the said impugned order does not restrain the Appellate Court to decide the said application at the time of final hearing of the appeal. All points are left open to be raised by the parties at the final hearing of appeal and application filed under Order 41 Rule 17 Civil Procedure Code.

7. With the above observation, the revisional application being **C.O. No. 68 of 2026** is **disposed of** without any order as to costs.

8. Connected applications, if any, are also, thus, disposed of.

9. The interim order, if any, stands vacated.

10. All parties shall act in terms of this order duly downloaded from the official *website* of this Court.

11. Urgent certified photocopy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Ajay Kumar Gupta, J.)