

SL.11.
March 15, 2021.
MNS/AKG

**CALCUTTA HIGH COURT
In the Circuit Bench at Jalpaiguri
CIVIL REVISIONAL JURISDICTION**

**C. O. No. 4 of 2021
with
CAN 2 of 2021**

(Through Video Conference)

**Subodh Thakur @ Subodh Kumar Thakur and
another**

-vs.-

Sakal Deb Thakur @ Shakal Deo Thakur

Mr. Shibaji Kumar Das,
Ms. Arpita Saha
...petitioners.

Affidavit-of-service filed in Court today be taken
on record.

Despite service on several occasions, none appears
for the opposite party.

Upon hearing learned counsel for the petitioners, it
is evident that the Sub-Divisional Magistrate at
Siliguri, by virtue of the impugned order dated
September 24, 2020, inter alia, directed the
petitioners to vacate the premises-in-question in
connection with an application under Sections 4, 22
and 23 of the Maintenance and Welfare of Parents
and Senior Citizens Act, 2007.

However, the Sub-Divisional Magistrate does not
have the power, under the provisions of the said Act
of 2007, to direct eviction of the respondents in such

a proceeding. As such, the portion of the impugned order, whereby the present petitioners were directed to vacate the premises, was bad in law.

Accordingly, C. O. No. 4 of 2021 is disposed of by modifying the impugned order, being Order No. 3 dated September 24, 2020 passed by the Sub-Divisional Magistrate, Siliguri in Miscellaneous Petition Case No. 10 of 2020, to the extent that the direction upon the present petitioners to vacate the premises is set aside.

It is made clear that the other portions of the impugned order are kept intact by this Court.

However, this order will not prevent the opposite party from seeking eviction of the petitioners before a competent civil court in accordance with law.

In view of disposal of the revisional application, the connected application, being CAN 2 of 2021, is also disposed of.

There will be no order as to costs.

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

(Sabyasachi Bhattacharyya, J.)