

*In The High Court At Calcutta
Civil Revisional Jurisdiction*

C.O. 346 of 2024

Sri Kanti Bhusan Maji

Vs.

Smt. Shampa Maity & Ors.

Mr. Pinaki Ranjan Mitra ...For the petitioner.

Mr. Souradipta Banerjee,
Ms. Fatima Hassan ... For the opposite party no. 3.

Affidavit-of-service filed on behalf of the petitioner be kept
with the record.

Except opposite party no. 3, others are not represented.

The revisional application though has been brought to the list at
the instance of the petitioner for extension of interim order but by
the consent of the parties, it is taken up for final disposal.

The opposite party nos. 1 and 2 have suffered a decree of
eviction in Title Suit No. 112 of 2001, a suit for eviction of
licensee which was subsequently re-numbered as Title Suit No.
138 of 2006.

The said decree has been put into execution giving rise to Title
Execution Case No. 04 of 2011 before the 2nd Court of learned
Civil Judge, (Junior Division) at Uluberia, District – Howrah.

The judgment-debtors in the said execution case have filed an
application under Section 47 of the Code of Civil Procedure, being
Misc. Case No. 04 of 2012.

In the said misc. case, the opposite party no. 3 has filed an
application under Order I Rule 10(2) read with Order XXI Rule 97
of the Code of Civil Procedure.

The executing Court by the order impugned being Order No. 29 dated January 08, 2024 has allowed the said application thereby has added the opposite party no. 3 in the said Misc. Case No. 04 of 2012 subject to payment of costs of Rs. 500/- to the decree-holder.

Addition of a third party in an application under Section 47 of the Code is completely unwarranted, the order impugned therefore is set aside.

However, the opposite party no. 3 since is claiming to have acquired interest over the suit property by way of purchase, this order will not prevent him to approach the executing Court for determination of his such alleged independent right, title, interest over the suit property by taking recourse of Order XXI Rules 97 to 101 of the Code.

C.O. 346 of 2024 is thus disposed of without any order as to costs.

Parties to act on the server copy of this order duly downloaded from the official *website* of this Court.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)