

C.O. 685 of 2025

Amal Kumar Dey
-versus-
Swapan Dey

Mr. Sukanta Chakraborty
Mr. Anindya Halder
..for the petitioner

Mr. Rajeev Bhattacharya
Mr. Arindam Kundu
Ms. Debolina Dey
..for the opposite party

This application under Article 227 of the Constitution of India is at the instance of the defendant and is directed against an order being no. 37 dated 23rd December, 2024 passed by the learned Civil Judge, Senior Division, 3rd Court, Alipore in Title Suit No. 608 of 2020.

By the order impugned the application under Section 10 of the Code of Civil Procedure praying for stay of all further proceedings of the subsequent suit being Title Suit No. 608 of 2020 stood rejected.

The mother of the parties namely Chinu Rani Dey executed a deed of gift on 2nd August, 2017 thereby transferring her interest in the immovable property being a two storied building in favour of the opposite party herein. The original owner namely Chinu Rani Dey filed a suit for cancellation of the said deed of gift and for declaration that the said deed of gift is not binding upon

her and for permanent injunction being Title Suit No. 459 of 2020 which is pending before the learned Civil Judge, Senior Division, 3rd Court, Alipore.

The opposite party herein claiming to be the owner of the said two storied building by virtue of the deed of gift filed a suit for eviction against the petitioner herein upon termination of licence.

It is not in dispute that the suit for cancellation of the deed of gift being Title Suit No. 459 of 2020 is the prior suit and the suit for eviction of licensee filed by the opposite party herein is the later suit. After going through the pleadings in the aforesaid suits this Court finds that the fate of the Title Suit no. 608 of 2020 will depend upon the fate of the suit for cancellation of the deed of gift being Title Suit No. 459 of 2020. Though the parties of the two suits may not be the same and the issues may not be fully identical but the fact remains that the fate of the subsequent suit is dependent upon the fate of the prior suit.

It is submitted uniformly by the learned advocates for the parties that both the suits are pending before the same court and are at the stage of peremptory hearing. In view thereof, in order to avoid conflict of judicial decisions this Court is of the considered view that a direction for consolidation of both the suits will serve the interest of justice.

For the reasons as aforesaid, the order impugned is set aside.

The learned Civil Judge (Senior Division) 3rd Court at Alipore is directed to consolidate the two suits and take up the same for analogous hearing.

With the above observation and direction, C.O. 685 of 2025 stands disposed of.

No order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Hiranmay Bhattacharyya, J.)