

D/L- 11
25/06/2025
Ct. No.-6
Aritra

C.O. 847 of 2025

**Nimai Ghosh @ Nimai Ch. Ghosh
Vs.
Priti Ghosh & Ors.**

Mr. Siddhartha Banerjee, Sr. Adv.
Ms. Juin Dutta Chakraborty
Mr. Bidan Modak
Ms. Arpita Kundu

...for the petitioner

Mr. Prantick Ghosh
Ms. Shravani Ghosh

....for the opposite party

The order No.32 dated January 27, 2025 passed by the learned Additional District Judge, 8th Court, Barasat, District-North 24-Parganas in O.S. No.32 of 2015 is under challenge in this application under Article 227 of the Constitution of India at the instance of the plaintiff.

However, in the cause title of the civil revision application in addition to O.S. No.32 of 2015, O.S. No.34 of 2015 has also been mentioned.

Mr. Banerjee, learned senior advocate appearing for the petitioner submits that through inadvertence O.S. No.34 of 2015 has been referred to in the cause title of the civil revision application. He prays for leave to amend the cause title. As prayed for by Mr. Banerjee, learned senior advocate for the petitioner, leave is granted to the learned advocate on record of the

petitioner to amend the cause title of the civil revision application, here and now.

By the order impugned, the evidence of P.W.1 stood closed on the ground that frequent adjournments were taken by the petitioner.

Mr. Banerjee, learned senior advocate appearing for the petitioner, on instruction, submits that adjournment was sought for on the ground of illness of P.W.1. He further submits that an opportunity be granted to the petitioner to adduce the evidence of P.W.1 and other witnesses.

The learned advocate appearing for the opposite party seriously opposes the prayer of Mr. Banerjee. He submits that the petitioner sought for adjournments on several dates on frivolous grounds. He submits that the petitioner should not be permitted to adduce further evidence and the evidence of P.W. 1 was rightly closed by the learned trial judge.

Heard the learned advocates for the respective parties and perused the materials placed.

It appears from the record that adjournments was sought for by the petitioner on October 7, 2023, November 18, 2023, March 15, 2024, June 5, 2024, July 26, 2024, September 27, 2024, November 28, 2024 and December 10, 2024. The learned trial judge has specifically recorded that even after giving last chance

and special chance, the petitioner did not adduce evidence.

Mr. Banerjee, learned senior advocate appearing for the petitioner in course of his submission could not controvert such factual finding returned by the learned trial judge.

Considering the fact that the suit is a probate suit, this Court is inclined to grant a last opportunity to P.W.1 to adduce evidence subject to payment of cost. In the event, the P.W.1 appears before the learned trial judge in O.S. No.32 of 2015 on the next date fixed in the suit, the petitioner shall be allowed to give evidence subject to payment of cost of Rs.10,000/- to the contesting opposite party before the learned trial judge at least one day prior to the next date of hearing in O.S. No.32 of 2015. The quantum of cost has been fixed considering the conduct of the petitioner and the repeated adjournments granted to the petitioner.

It is, however, made clear that in the event the cost as directed to be paid by this Court is not paid within the time limit indicated hereinbefore, this order shall stand automatically recalled without any further reference to this Court.

In the event, the petitioner complies with the aforesaid direction, the learned Additional District Judge, 8th Court, Barasat, District-North 24-Parganas shall allow the P.W.1 to give evidence and shall proceed

thereafter in accordance with law. The impugned order dated 27.01.2025 passed in O.S. No.32 of 2015 stands set aside.

With the above observations and directions, CO 847 of 2025 is disposed of by requesting the learned Additional District Judge, 8th Court, Barasat, District-North 24-Parganas to make an endeavour to see that the O.S. No.32 of 2015 is disposed of as expeditiously as possible but preferably within a period of one year from the next date fixed without granting any unnecessary adjournments to either of the parties.

The time limit has been fixed taking note of the fact that the suit is pending from the year 2015.

There will be no order as to costs.

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

(Hiranmay Bhattacharyya, J.)