

Sl.4
20.06.2025
Court No.6
BP

C.O. 890 of 2025

Eastern Coalfields Ltd. & Anr.
-versus-
Sri Baboo Lal & Ors.

Mr. Debnath Ghosh, Sr. Advocate
Mr. Biswaroop Mukherjee
Mr. Pradipta Bose
Ms. Subesha Banerjee
... for the petitioners

Mr. Guddu Singh
..for the opposite party no.1

The order being no.50 dated 24th February, 2025 passed by the learned Civil Judge (Junior Division), 2nd Court at Asansol in Title Execution No. 08 of 2017 is under challenge at the instance of the judgement debtor in this application under Article 227 of the Constitution of India.

The opposite party herein filed a suit for declaration that he is a teacher of a school and is eligible for recurring grant in lieu of his service and for mandatory injunction. The suit was registered as Title Suit No. 197 of 2003. The learned Civil Judge (Junior Division), 2nd Court at Asansol by a judgement and decree dated February 26, 2006 decreed the said suit. The petitioners preferred a Title Appeal being no. 32 of 2007 and the said appeal was dismissed by a judgement and decree dated July 30, 2010. Being aggrieved by the judgement and decree passed by the learned judge of the 1st appellate court in Title Appeal No. 32 of 2007, the petitioner

preferred a second appeal before this Hon'ble Court which is registered as SAT 425 of 2011.

In the meantime the opposite party herein has put the decree into execution giving rise to Title Execution Case No. 8 of 2017.

Mr. Ghosh, learned senior advocate appearing for the petitioners submits that the petitioners could not take steps for admission of the second appeal as there were certain defects in the decrees of the learned trial judge and the 1st appellate court.

Challenging an order dated July 15, 2023 in the aforesaid title execution case, the petitioners approached this Court by filing Civil Order No. 2610 of 2023. The said civil revisional application was disposed of by a co-ordinate bench by order dated 6th March, 2024 by passing an unconditional order of stay of the execution case for a period of two weeks with a further direction that the stay shall continue for a period of seven months if the cost as directed by the Court is paid. It was further observed in the said order that if the petitioners are unable to obtain a stay from the Hon'ble Division Bench upon admission of the second appeal the execution will proceed expeditiously.

Mr. Ghosh, learned senior advocate appearing for the petitioners submits that the decretal amount has already been secured by way of bank guarantee before the learned Registrar General, High Court, Calcutta. It

further appears from the order dated 6th March, 2024 that the court was informed that the records and the judgement and decree of the learned trial judge are not available. On the basis of such submission the co-ordinate bench observed that if the records are not available the petitioners will be entitled to file an application for reconstruction of the records on the basis of the copies to be supplied by the petitioners and the opposite parties shall also cooperate and also not raise any objection with the prayer for reconstruction of the records. Mr. Ghosh submits that pursuant to the order passed in C.O. 2610 of 2023 the application for reconstruction was filed though belatedly.

The grievance of the petitioners is that no steps have been taken till date by the learned executing court for reconstruction of the records.

By the order impugned the learned executing court observed that the petitioners failed to comply with the directions passed by this Hon'ble Court for reconstruction of the records within the time limit indicated therein and for such reason the learned executing court directed issuance of writ by the office. Being aggrieved against such order the petitioners have approached this Court.

However, certain subsequent developments took place in the meantime. Pursuant to the orders passed by this Court the learned District Judge, Paschim Bardhaman has submitted a report dated June 17, 2025. The learned

advocates of the respective parties were given liberty to go through the said report.

After going through the said report this Court finds that necessary rectification or correction of the decree of title appeal and the title suit could not be carried out as the records were not available. However, after sincere effort the records of the title appeal and the title suit were transmitted to the district record room of Purba Bardhaman on 5th June, 2017. Thereafter pursuant to a memo issued by the learned District Judge, Paschim Bardhaman requesting the learned District Judge, Purba Bardhaman to transmit the records of the suit and the appeal, the records were transmitted and the same were received by the office of the District Judge, Paschim Bardhaman on 17th June, 2025. The report of the learned District Judge further states that after receipt of the records necessary steps for rectification of the judgement and decree has already been made and the rectification has been done in the meantime.

After going through the said report the learned advocates of the respective parties were also satisfied that the rectification of the decree of the title suit and title appeal have been carried out in the meantime.

At this stage Mr. Ghosh, learned senior advocate appearing for the petitioners submits that the interim order is going to expire by the end of the month of June,

2025. He submits that the order of stay be extended till the hearing of the admission of the second appeal.

Such submission is seriously opposed by the learned advocate for the opposite parties. He submits that the interim order may be extended for a short period.

Since this Court passed an interim order for the first time on 19th March, 2025 which was extended subsequently from time to time and is still in subsistence, this Court is inclined to extend the interim order for a limited period.

The interim order which was initially passed on 19th March, 2025 and lastly extended by an order dated 22nd May, 2025 is further extended till July 18, 2025 or until further orders whichever is earlier.

The parties will be at liberty to take appropriate steps in the second appeal.

With the above observations and directions, C.O. 890 of 2025 stands disposed of.

There shall be, however, 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.)