

Court No. 6
(265719)

30.07.2025
(AD 14)
(S. Banerjee)

CO 1016 of 2025

Baby Behera @ Suchitra Hoda
Vs.
Sri Nilanjan Santra

Ms. Mita Bag

...for the petitioner

Though the matter is appearing under the heading 'Extension of interim order', with the consent of the parties, the main civil revision application is being taken up for hearing.

This application under Article 227 of the Constitution of India is at the instance of the defendant and is directed against order no. 233 dated February 17, 2025 and order no. 234 dated February 28, 2025, both passed by the learned Civil Judge (Jr. Division), Kharagpur, Paschim Medinipur in OS 98 of 2020.

By the order dated February 17, 2025, the prayer for time at the instance of the defendant/petitioner herein, was rejected and the evidence of the DW-1 was closed. Thereafter, the petitioner filed an application under Section 151 Civil Procedure Code for allowing the petitioner to tender

evidence. Such application was also rejected by an order dated February 28, 2025.

After going through the application under Section 151 of the Civil Procedure Code, this court finds that an adjournment was prayed for on February 17, 2025 on account of illness of the DW-1.

After going through the materials on record this court finds that the petitioner prayed for an adjournment on repeated occasions and it appears from the materials on record that the learned trial judge after taking into consideration the conduct of the petitioner, closed the evidence of the DW-1.

Learned advocate appearing for the petitioner submits that an opportunity be given to the petitioner to tender evidence.

Such prayer is seriously opposed by the learned advocate appearing for the opposite parties.

However, considering the fact that the suit is for eviction and on February 17, 2025 the prayer for adjournment was made on the ground of illness of the DW-1, this court is inclined to grant a last opportunity to the DW-1 to adduce evidence subject to certain terms.

It has been submitted by the learned advocate appearing for the petitioner that the next date fixed in the suit is August 18, 2025.

If on or before August 14, 2025, the petitioner pays a sum of Rs. 2,000/- to the opposite party herein on account of cost, the DW-1 shall be allowed to adduce evidence on August 18, 2025. If, however, the DW-1 is found to be not present on August 18, 2025, no further opportunity shall be granted to the petitioner to adduce evidence.

With the above observations, CO 1016 of 2025 stands allowed and the impugned order stands set aside.

It is, however, made clear that if the cost is not tendered within the time limit as indicated hereinbefore, this order shall automatically stand recalled and the impugned order shall stand survived.

(Hiranmay Bhattacharyya, J.)