

Item No.39
26.11.2025
Court. No. 6
CP

C.O. 1033 of 2025

Bhiswadeb Biswas
Vs.
Rabindra Nath Biswas

Mr. Partha Pratim Roy
Mr. Sarbananda Sanyal

...for the Petitioner.

1. The petitioner has challenged an order dated January 27, 2025, passed by the learned Civil Judge (Junior Division), Tehatta, Nadia in connection with Misc. Case No.15 of 2024. The Misc. Case arose out of an application under Order 21 Rules 97 to 101 of the Code of Civil Procedure. Title Suit No. 119 of 2013 was decreed. The decree holder put the decree into execution by filing Title Execution Case No.06 of 2016. The petitioner filed the application for setting aside the impugned judgment and decree and for an order directing that the decree was not binding upon the petitioner.
2. The petitioner claimed independent title as a bargadar. In the execution proceeding, the writ of possession could not be served by the process server, namely, Debasis Sarkar, on July 15, 2016. He was not able to execute the writ of possession due to stiff resistance from the judgment debtor and others. During his examination as PW – 2 in the Misc. Case the process server corroborated the same and his signature along with the report was marked as Exhibits 1 and 2

respectively. The decree holder sought for police help and the assistance of one male armed Sub-Inspector, one female armed Sub-Inspector, eight male armed constables and eight female armed constables for the purpose of execution of the decree. The SP, Nadia was directed by the court to provide the cost estimate for the above required police personnel. Thus, the prayer of the decree holder under Rule 208 of the Code of Civil Procedure was allowed. The Misc. Case was disposed of on contested hearing and upon allowing parties to adduce evidence.

3. Mr. Roy, learned advocate appearing for the petitioner contends that, while dismissing the Misc. Case, the court could not have directed the IC, Tehatta Police Station to comply with the order and execute the decree, because no application for police help had been made. The court could not suo moto direct the police to execute the writ. This contention of Mr. Roy is contrary to the records.
4. The decree holder had made an application for grant of police help under Rule 208 of the Civil Rules and Orders. Accordingly, the SP, Nadia was directed to provide the cost estimate. The number of police personnel required had been specified by the decree holder. The SP, Nadia filed a report of the cost estimate on July 25, 2023, which was produced before the learned court on July 27, 2023. On August 7, 2023, the court directed deposit of police cost. The decree holder

submitted that he was not in a position to bear the cost as estimated. The decree holder was directed to deposit the initially quoted amount to the tune of Rs.37, 716/- per day. The said cost was deposited.

5. Under such circumstances, the contention of Mr. Roy fails and the application is accordingly dismissed. The correctness of the order passed in the Misc. Case is not gone into.
6. I do not find any illegality or irregularity in the order impugned to the extent of a direction upon IC, Tehatta Police Station to execute the writ upon communication with the Nazir. I also find that the court rightly directed re-issuance of the writ and to employ the bailiff for identification of the property.
7. The petitioner is at liberty to approach the appropriate forum against the other part of the order.
8. There shall be no order as to costs.
9. Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)