

Court No. 6
(265719)

20.05.2025
(AD 14)
(S. Banerjee)

CO 1729 of 2025

Saswata Das
Vs.
Rita Guha & Ors.

Mr. Shibaji Kumar Das
Mr. Dipendu Sarkar
Ms. Deblina De
Mr. Kaushal Kumar
Ms. Sharmistha Das

...for the petitioner

This application under Article 227 of the Constitution of India is at the instance of the plaintiff and is directed against order dated April 22, 2025 passed by the learned Civil Judge (Sr. Division) 2nd Court at Alipore in Title Suit No. 149 of 2014.

By the order impugned the application filed by the plaintiff/petitioner herein praying for recalling of PW-1 to place the certified copies of 10 registered deeds in evidence for marking the same as exhibits stood rejected.

Learned advocate appearing for the petitioner submits that at the relevant point of time the petitioner was not in possession of the certified copies of these deeds and for which the petitioner had filed the application for recalling of PW-1.

After going through the averments made in the said application, this Court finds that it has not been stated as to when the plaintiff obtained the certified copies of such documents. It further appears from the averments made in the said application that the plaintiff seeks to recall PW-1 in order to prove his readiness and willingness to purchase the suit property at the time of execution of the agreement for sale. It has been further stated in the said application that the petitioner approached the banker for obtaining the statement of accounts but the bank expressed their inability to provide the same for long 15 years.

It is well settled that recalling of witness should not be permitted to fill up the lacunae in evidence. The learned trial judge has assigned cogent reasons for rejecting the said application. The learned trial judge was right in not allowing the prayer of the plaintiff to recall PW-1 to prove what property he purchased after executing the agreement for sale to prove his capacity to purchase the same.

For the reasons aforesaid, this Court is not inclined to interfere with the order impugned. Accordingly CO 1729 of 2025 stands dismissed.

(Hiranmay Bhattacharyya, J.)