

D/L- 2
19/08/2025
Ct. No.-6
Aritra

C.O. 1965 of 2025

Smt. Uma Dey
Vs.
Ratanlal Barman

Mr. Ayanava Bhattacharya

....for the petitioner

Mr. Dhananjay Banerjee
Mr. P. Hazra

....for the opposite party

This application under Article 227 of the Constitution of India is at the instance of the appellant in Title Appeal No.37 of 2025 and is directed against an order being No.2 dated May 19, 2025 passed by the learned Additional District Judge, 1st Court at Serampore.

By the order impugned the learned trial judge rejected the prayer for stay on the ground that the appeal was filed beyond the prescribed period of limitation and the application under Section 5 of the Limitation Act is still pending.

The learned advocate appearing for the petitioner submits that further proceeding of the execution case be stayed pending hearing of the title appeal.

The learned advocate appearing for the opposite party submits that the hearing of the application under Section 5 of the Limitation Act has been fixed on September 2, 2025.

On a query of the Court the learned advocate appearing for the opposite party submits that copy of the application under Section 5 of the Limitation Act has not been served upon the opposite party till date. The learned advocate appearing for the petitioner however, submits that the copy of the application under Section 5 of the Limitation Act has been annexed to the civil revision application which has already been served upon the opposite party. The learned advocate for the opposite party does not dispute the fact that the application under Section 5 of the Limitation Act filed in Title Appeal No.37 of 2025 is part of the civil revision application. He assures this Court that the opposite party shall enter appearance in the Title Appeal No.37 of 2025 within a week from date.

The opposite party will be at liberty to file a written objection to the application under Section 5 of the Limitation Act on or before August 28, 2025 upon serving an advance copy of the same to the learned advocate for the petitioner.

Since the hearing of the application under Section 5 of the Limitation Act is fixed on September 2, 2025, this Court is of the considered view that the interest of justice would be sub-served if the application under Section 5 of the Limitation Act is directed to be disposed of expeditiously.

In the light of the submission made by the learned advocates for the respective parties, CO 1965 of 2025

stands disposed of by requesting the learned Additional District Judge, 1st Court at Serampore to take up the hearing of the application under Section 5 of the Limitation Act filed in Title Appeal No.37 of 2025 on the next date fixed i.e. on September 2, 2025 and to make an endeavour to dispose of the same expeditiously without granting any unnecessary adjournments to either of the parties.

After disposal of the application under Section 5 of the Limitation Act the learned Additional District Judge is requested to take up the hearing of the stay application.

At this stage the learned advocate appearing for the petitioner submits that August 21, 2025 is the next date fixed in the Executing Court for deposit of police cost. The learned advocate for the opposite party submits that if a prayer for adjournment is made in the Executing Court, the opposite party shall not oppose the prayer for adjournment on the next date.

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.)