

Ct No.10
AD- 4
24.09.2025
(SSS)

CO 2076 of 2025

Sri Samir Paul @ Samir Kumar Pal
Vs.
Sri Madhusudan Modak

Mr. Subhendu Bandyopadhyay,
Mr. Arindam Mitra
...for the petitioner.

1. Affidavit of service filed today be kept on record.
2. Despite service, none appears for the opposite party at the time of call.
3. The plaintiff /opposite party filed an eviction suit on the ground that the revisionist petitioner/defendant is a licensee. Such suit being decreed, an appeal was preferred against the same.
4. At this juncture, the revisionist petitioner filed in the appeal an application for repair of the suit premises under Section 151 of the Code of Civil Procedure, simultaneously with an application under Order XXXIX Rule 7 of the Code of Civil Procedure for holding a local inspection to ascertain the condition of the premises.
5. Whereas, by the impugned order, the application for local inspection was allowed, the

repair application was directed to be heard along with the appeal.

6. The grievance of the revisionist petitioner is that unless the repair application is immediately decided, the revisionist petitioner will run the risk of imminent risk to life and limb due to the condition of the property.

7. Upon hearing learned counsel for the petitioner, it is evident that the petitioner cannot have a grievance with regard to the portion of the impugned order whereby the petitioner's own application for local inspection was allowed. However, it is well settled that unless all interlocutory applications are disposed of, an appeal cannot be finally decided. The only exception is applications in the nature of production of additional evidence and/or amendment of the pleadings which might be required to be heard along with the main appeal.

8. Keeping in view such position of law, this court is of the opinion that the learned appellate Judge ought to have decided the repair application first before going on to dispose of the appeal.

9. Accordingly, CO 2076 of 2025 is disposed of by modifying the impugned order bearing Order No. 30 dated May 21, 2025 to the limited extent that the learned Additional District Judge, Fast Track –II Court, Burdwan, District – Purba Bardhaman shall

take up for hearing and dispose of the repair application of the revisionist petitioner within three weeks from the date of communication of this order to the said court.

10. Only upon disposal of the said repair application shall the learned Additional District Judge proceed to dispose of the appeal.

11. No order as to costs.

12. Parties shall act on the server copy of this order, duly downloaded from the official website of this court.

(Sabyasachi Bhattacharyya, J.)