

D/L- 62
30/06/2025
Ct. No.-6
Aritra

C.O. 2272 of 2025

**Smt. Bandana Saha
Vs.
Sri Gutam Bag & Anr.**

Mr. Sounak Mandal

...for the petitioner

This application under Article 227 of the Constitution of India is at the instance of the defendant and is directed against an order being No.6 dated May 7, 2025 passed by the learned District Judge at Howrah in Title Appeal No.18 of 2025.

By the order impugned, the learned District Judge observed that in view of the order passed in C.O. No.1014 of 2025 it will not be prudent to proceed with the stay application.

Record reveals that by an order dated March 21, 2025 in C.O. No.1014 of 2025, an order of stay of all further proceedings in Title Execution Case No.161 of 2024 pending before the learned Civil Judge (Jr. Div.), 1st Court at Howrah was passed which was to continue till the end of April, 2025 or until further orders, whichever is earlier. It was further made clear that the pendency of civil revision application shall not preclude the learned First Appellate Court from taking up the hearing of the application under Section 5 of the

Limitation Act for condonation of delay in preferring the Title Appeal No.18 of 2025.

It appears from the record that by an order dated April 28, 2025, the application under Section 5 of the Limitation Act stood allowed subject to payment of cost. It further appears that the cost has been paid and the money receipt has also been filed which has been taken note of by the learned District Judge in the order dated May 7, 2025.

Mr. Mandal, learned advocate appearing for the petitioner, in his usual fairness, submits that the order of stay of the execution case passed by the order dated March 21, 2025 in C.O. No.1014 of 2025 stood expired by efflux of time and the same has not been extended thereafter.

For such reason, this Court is of the considered view that there cannot be any impediment upon the learned District Judge Howrah to proceed with the hearing of the stay application.

Mr. Mandal, learned advocate appearing for the petitioner submits that the title execution case has been fixed for issuance of writ on July 14, 2025 and the hearing of the appeal has been fixed on November 13, 2025.

Considering the fact that the delay in filing the title appeal has been condoned, this Court is of the considered view that the interest of justice would be

sub-served if the petitioner is granted liberty to file an application before the learned District Judge Howrah praying for fixing an early date of hearing of the said application.

CO 2272 of 2025 stands disposed of by giving liberty to the petitioner to file an application for fixing an early date of hearing of the stay application and if such an application is filed, the learned District Judge Howrah is requested to consider the same in accordance with law.

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.)