

D/L- 20
28/07/2025
Ct. No.-6
Aritra

C.O. 2639 of 2025

**Manish Kumar Das
Vs.
Jharna Dutta & Ors.**

Mr. Sayamal Kumar Das
Mr. Sarada Prasad Roy
Mr. Bushra Neshat
Mr. Soumava Ghosh

...for the petitioner

Mr. Niladri Saha
Ms. Paromita Bhattacharya
Ms. Madhurima Basu

....for the opposite parties

This application under Article 227 of the Constitution of India is at the instance of the applicant under Section 47 of the Code of Civil Procedure and is directed against an order dated May 5, 2025 passed by the learned Judge, 5th Bench, Presidency Small Causes Court at Calcutta in Miscellaneous Case No.32 of 2025.

By the order impugned the miscellaneous case under Section 47 of the Code of Civil Procedure stood rejected.

The learned advocate appearing for the petitioner submits that originally Hemendra Prasad Das and Girindra Prasad Das were the joint tenants in respect of the suit property. He further submits that upon the death of Girindra Prasad Das the petitioner became the joint tenant along with Hemendra Prasad Das. The learned advocate for the petitioner further submits that

upon the death of Hemendra Prasad Das and his wife the Administrator General was substituted without taking any steps for substituting the petitioner, who is the legal heir of Hemendra Prasad Das.

Heard the learned advocate for the opposite party on such submission.

The learned advocate for the petitioner, in his usual fairness, submits that that upon the death of the widow of Hemendra Prasad Das namely, Anjali Das an application for substitution was filed by the petitioner herein but such application stood rejected. The said order has already attained finality as the petitioner did not challenge the same before any higher forum.

After the decree has been put into execution, the petitioner herein has filed an application under Section 47 of the Code of Civil Procedure. The petitioner is the nephew of Hemendra Prasad Das by relation.

Petitioner's prayer for being impleaded in the suit for eviction was rejected and, therefore, it does not lie in the mouth of the petitioner to contend that the decree is inexecutable as he was not made a party in the eviction suit.

The learned judge of the Executing Court has assigned cogent reasons for rejecting the said miscellaneous case.

This Court is not inclined to interfere with such order.

Accordingly, CO 2639 of 2025 stands dismissed.

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.)