

AD-02
Ct No.16
24.11.2025
TN

SAT 124 of 2023
IA No: CAN 1 of 2023

Bhajahari Mahato @ Bhoju Mahato and others
VS
Kiriti Mahato (since deceased) Smt. Khandi
Mahato and others

Mr. Surya Prasad Chattopadhyay,
Mr. Satya Ranjan Kundu

.....for the appellants

Mr. Chittapriya Ghosh,
Mr. Kuntal Roy

....for the respondent nos. 2 to 9

1. This matter has a short but chequered history. By a previous order dated November 22, 2024, a coordinate Bench of this Court had observed that the Court was not inclined to admit the appeal as there was no substantial question of law involved, but merely on the submission of learned counsel for the appellants that the appellants may be permitted to remain in occupation for a brief period of time, a notice was directed to be given to the respondents.
2. Despite such notice having been given and the respondents appearing, the appellants remained unrepresented on December 17, 2024, when the matter appeared before the same coordinate Bench.
3. Thereafter, the matter came before us on November 19, 2025 when, taking note of the fact that the previous coordinate Bench had merely posted it for

further orders on the prayer of the appellants to file an undertaking to leave the premises, we had deprecated the sharp practice adopted by the appellants in seeking a fresh hearing under Order XLI Rule 11 of the Code of Civil Procedure, since the coordinate Bench had all but dismissed the appeal under the said provision but merely granted the grace to the appellants to have some time to leave the premises. We had further recorded in our order dated November 19, 2025 that learned counsel appearing on that day for the appellants had not yet obtained any no objection certificate from the present learned Advocate for the appellants.

4. The procedure in law is well-known. The present learned Advocate for the appellants ought to have been contacted by the appellants seeking a no objection and in the event no response came thereto despite service of such request, the Court always had the power to cancel the previous Vakalatnama and permit the present Advocates to appear for the appellants.
5. However, even today, we find that no such effort has been taken out by the appellants, thereby clearly showing the *mala fides* of the appellants in buying time merely to protract the execution of the valid decree obtained against the said appellants.
6. In such view of the matter, in deference to the view taken by the co-ordinate Bench earlier, we formally

observe that SAT 124 of 2023 is dismissed under Order XLI Rule 11 of the Code of Civil Procedure in view of no substantial question of law being involved.

7. Consequentially, CAN 1 of 2023 is dismissed as well.
8. Since we are informed that an execution case has already been taken out in respect of the decree impugned in the second appeal, the said proceeding shall be concluded as expeditiously as possible.
9. There will be no order as to costs.

(Sabyasachi Bhattacharyya, J.)

(Supratim Bhattacharya, J.)