

Court No. 6
(265719)

31.07.2025
(AD 26)
(S. Banerjee)

CO 2734 of 2025

Mr. Mark Fernandes & Ors.
Vs.
Ghulam Murtaza

Mr. Apratim Bhattacharya
Mr. Sagar Chowdhury

...for the petitioners

This application under Article 227 of the Constitution of India is at the instance of the defendant and is directed against order no. 105 dated July 18, 2025 passed by the learned Judge, Bench-V, City Civil Court, Calcutta in Title Suit No. 35226 of 2014. By the order impugned the application for recalling was allowed as a single chance subject to payment of compensatory cost of Rs. 3,000/- to the plaintiff.

Mr. Bhattacharya, learned advocate appearing for the petitioners, in his usual fairness, submits that there is a caveat lodged by Advocate Kalpana Dutta in this matter.

Mr. Bhattacharya, learned advocate appearing for the petitioners, draws the attention of the court to the provisions of Section 35A and 35B of the Civil Procedure Code and submits that the cost could not

have been imposed under Section 35A of the Civil Procedure Code.

After going through the order impugned this court finds that it has not been mentioned that the cost was imposed under the provisions of 35A of the Civil Procedure Code. The learned trial judge after considering the conduct of the petitioner was right in recalling the order no. 104 dated June 11, 2025 subject to payment of cost. Section 35B enables the court to impose cost for causing delay.

For the reasons, this court is not inclined to interfere with the order impugned.

With the above observations CO 2734 of 2025 stands dismissed.

(Hiranmay Bhattacharyya, J.)