

26.08.2025  
Item No.2  
PG  
Ct. No.446

**C.O. 2809 of 2025**  
**Sri Sukdev Saha**  
**Versus**  
**Sri Tusher Kanti Sengupta**  
**Having died represented by his heirs full**  
**Brothers Tamal Kanti Sengupta & Ors.**

Mr. Purnasish Gupta  
Ms. Mary Datta  
Mr. J.K. Mukhopadhyay.....for the petitioner

Mr. Sounak Bhattacharya  
Mr. Anirban Saha Roy  
Ms. Bipasha Bhattahcarya.....for the opposite party nos.  
2 & 3

1. The instant application is filed under Article 227 of the Constitution of India against an order passed by the learned Civil Judge (Junior Division) at Bidhan Nagar, North 24 Parganas on 11<sup>th</sup> June, 2025 allowing the application under Order XXII Rule 10 of the Code of Civil Procedure.
2. At the outset, the learned advocate representing the opposite party nos. 2 and 3 raised objection on the ground of maintainability since under Order XLII Rule (1) an order under Rule 10 of Order XXII, giving or refusing to give leave is appealable. Hence this revisional application is not maintainable.
3. The learned advocate representing the petitioners submits that by way of an order dated 11<sup>th</sup> June, 2025, the learned Court disposed of two applications, one under Order XXII Rule 4 of CPC and another under Order XXII Rule 10 of the

CPC and the present petitioners are aggrieved by such order insofar as the application dated 19<sup>th</sup> April, 2024 under Order XXII Rule 10 of the CPC, which is allowed.

4. The learned advocate representing the petitioners has also cited two decisions reported in *AIR (Cal.) 1991-0-120 : Bimal Sahoo, Secretary, Basudebpur Girls High School vs. Gouri Rani Pahari*, where the Court did not accept the contention of the learned senior advocate Mr. Roychowdhury that the Court will not exercise the power of superintendence if an alternative remedy is available particularly when the court finds inherently want of jurisdiction.
5. The other judgment relied on by the learned advocate is reported in *AIRBOMR-2020-5-612: M/S. Indo Unique Flame Ltd. Vs. M/S. N. N. Global Merchantile Pvt. Ltd.* where it was also held that “ *the supervisory jurisdiction under Article 227 of the Constitution is exercised for keeping the sub-ordinate Courts within the bounds of their jurisdiction. When the Sub-ordinate Court has assumed a jurisdiction, which it does not have or has failed to exercise a jurisdiction which it does have or the jurisdiction though available is being exercised by the Court in a manner not permitted by law and failure of justice or grave injustice has occasioned thereby, the High Court may step in to exercise its supervisory jurisdiction.*”

6. On a careful consideration of both the decisions and facts and circumstances, the proposition laid thereunder by the Coordinate Bench of this Court as well as by the High Court of Bombay are found to be distinguishable being different from the facts and circumstances of this case. The petitioner in this case specifically prayed for setting aside the order allowing the petition filed under Order XXII Rule 10 of CPC.
7. Therefore, this Court is unable to accept such contention and accordingly, do not find any reason to invoke the jurisdiction under Article 227 of the Constitution of India when the order impugned is especially an appealable order under the specific provision as enumerated in the Code of Civil Procedure.
8. In view of the above fact, this revisional application stands dismissed as not maintainable. However, liberty is granted to the petitioner to approach the appropriate forum, if he so desires.
9. No costs.
10. Accordingly, this revisional application is rejected.
11. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

**(CHAITALI CHATTERJEE (DAS), J.)**