

Ct. No.446 D/L
Saikat 07 14.08.2025

CO/2853/2025

**SMT. TINKU BHATTACHARYA
VS.
SHRI BIDYUT SEN GUPTA**

Mr. Uddipan Banerjee, Adv.
Mr. Subhrakanti Samanta, Adv.

...For the Petitioner

Mr. Sounak Bhattacharya, Adv.
Mr. Sounak Mandal, Adv.
Mr. Anirban Saha, Adv.

...For the Opposite Parties

1. This revisional application is directed against an order being No.29 dated 14th July, 2025, passed by the learned Civil Judge, Senior Division, 1st Court, Baruipur in Title Suit No.145 of 2023 whereby the learned trial court has closed further cross-examination of the P.W.1 and directed a suit to proceed *ex parte*.
2. At this stage, it is submitted by the learned advocate appearing for the petitioner that the present petitioner is a widow, substituted after demise of her husband and had no *mala fide* intention to delay the suit proceeding.
3. The learned advocate appearing for the opposite parties raises vehement objection and submits that on repeated occasions adjournment on her behalf was sought for with the change of advocates time to time, which shows intention of the present petitioner only to delay and drag the proceeding which was for eviction and recovery of possession.

4. In this case, the husband of the petitioner was inducted by an agreement dated 15th August, 2019 for a period of 11 months and expiry of such period, further agreement was entered into and the present petitioner is in possession of the suit property. A suit for eviction on termination of licence was filed by the opposite party against the husband of the petitioner which was duly contested by the petitioner's husband and during pendency of the said suit the husband of the petitioner died intestate on 12th December, 2024, leaving behind the present petitioner as his legal heir and successor. It is further said after demise of petitioner's husband, opposite party filed an application for substituting the petitioner as defendant which was allowed on 20th January, 2025. Subsequently, the suit was fixed for taking evidence and the present petitioner could not attend due to her ill health and accordingly, the suit was fixed for *ex parte*. Subsequently, on the prayer of the learned advocate for the petitioner, order of *ex parte* was set aside and directed to show cause which was duly filed and Rs.2000/- was directed to be paid. Thereafter, the matter was again fixed for hearing and for taking evidence as the learned advocate was not prepared to cross-examine the learned court below was pleased to pass such closing of further cross-examination of P.W.1 and directed the suit to be proceeded *ex parte*.

5. Considering the facts and circumstances and the present petitioner being the widow of the original defendant, substituted only in the month of January, 2025, and

though primarily certain laches can be found on the part of the petitioner is apparent, this Court is of the view that a further opportunity should be given to the present petitioner to contest the proceeding which is otherwise for eviction.

6. With this observation this revisional application is disposed of with the direction to the learned trial court to allow the present opposite party to cross-examine the P.W.1 after setting aside the suit from *ex parte* on the board. It is further specifically clarified that no unnecessary adjournment shall be granted in favour of the defendant/present petitioner and the petitioner must be very vigilant to continue with the proceeding till it reaches its finality. The evidence which is allowed to be completed within a period of one month in terms of the above. The learned trial court is also directed to dispose of the Title suit as expeditiously as possible.
7. Considering the financial position as mentioned before this Court by the learned advocate in respect of the opposite party, she is saddled with any cost in this proceeding, however, that lenient approach of this court should not be misconstrued by the petitioner to indulge herself in violating the direction passed by this Court. It is made clear, in case, failure to comply with any of the directions mentioned above, the trial court will be at liberty to proceed for *ex parte* hearing in accordance with law.

8. Urgent Photostat certified copy of this order, if applied for, be given to the parties, on priority basis, upon compliance of all necessary formalities.

[Chaitali Chatterjee (Das), J.]