

Sl.25
11.08.2025
Court No.6
BP

C.O. 2904 of 2025

Vinod Jaiswal
-versus-
Din Dayal Kayan & Anr.

Mr. Subir Banerjee
Md. Hossain
Mr. Gopal Chandra Gope
Mr. M.N. Maity
... for the petitioner

Mr. Aniran Saha Roy
..for the opposite party

This application under Article 227 of the Constitution of India is at the instance of the defendant and is directed against an order dated July 11, 2025 passed by the learned Judge, 11th Bench, City Civil Court at Calcutta in Title Suit No. 785 of 2020.

By the order impugned the prayer for waiver of the cost imposed upon the defendant stood rejected and a date has been fixed for argument.

After some argument the learned advocate appearing for the petitioner submits that the petitioner is ready and willing to pay the cost imposed by the learned trial judge by the order dated 9th July, 2024 in course of this day.

Mr. Saha Roy, learned advocate appearing for the opposite party submits that the petitioner made several attempts to drag the instant suit. He submits that the prayer for time was made on several occasions on

frivolous ground which the learned trial judge rejected. He further submits that the petitioner did not also comply with the directions passed by the learned trial judge with regard to payment of cost. He submits that today (11.08.2025) is the date fixed for argument.

Considering the fact that the opposite party has filed a suit for recovery of possession, this Court is of the considered view that the defendant/petitioner herein should be granted a last opportunity to adduce evidence subject to certain terms. In the event the petitioner pays a sum Rs. 3,000/- on account of cost to the opposite party herein on or before 2 p.m. today, the learned trial judge shall fix a date for evidence of the defendant witness. If, however, on that date the defendant witness is not found present the learned trial judge shall be free to proceed with the suit in accordance with law.

With the above observation, the order dated July 11, 2025 is set aside.

In the event the cost as directed to be paid is not paid within the time limit as indicated hereinbefore, this order shall automatically stand recalled and the learned trial judge shall be free to proceed with the suit in accordance with law. If the cost is tendered by the petitioner to the learned advocate on record of the opposite party before the learned trial judge, he shall accept the same and issue an acknowledgement as a token of acceptance in support thereof.

Since this order is passed in presence of the learned advocates for the respective parties, Mr. Saha Roy, learned advocate representing the opposite party before this Court is directed to communicate this order to the learned advocate for the opposite party appearing before the learned trial judge. In case the defendant/witness appears on the date fixed by the learned trial judge, the learned trial judge shall make an endeavour to dispose of the suit as expeditiously as possible but preferably within a period of three months from the next date fixed without granting any unnecessary adjournments to either of the parties.

Accordingly, C.O. 2904 of 2025 stands disposed of.

There shall be, however, no order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Hiranmay Bhattacharyya, J.)