

D/L- 23
19/08/2025
Ct. No.-6
Aritra

C.O. 2946 of 2025

**Sri Shanker Lal Agarwala & Ors.
Vs.
Nirmal Kumar Maheshwari @ Behani & Ors.**

Mr. Pradeep Kumar

....for the petitioners

This application under Article 227 of the Constitution of India is at the instance of the plaintiff and is directed against an order dated April 22, 2025 passed by the learned Civil Judge (Jr. Div.), Additional Court at Sealdah in Ejectment Suit No.61 of 2013.

By the order impugned the application under Order 38 Rule 1 and 4 of the Code of Civil Procedure stood rejected.

The learned advocate appearing for the petitioner submits that the defence of the opposite parties against delivery of possession has already been struck out under Section 7(3) of the West Bengal Premises Tenancy Act, 1997. He further submits that a huge amount is lying in arrears and for which the petitioner filed the application under Order 38 Rule 1 and 4 of the Code of Civil Procedure.

The learned trial judge was right in holding that the provisions of Order 38 Rule 1 and 4 of the Code of Civil Procedure can be invoked only when there is serious apprehension of absconding of any party. The learned

trial judge has observed that the plaintiff has not filed any scrap of paper to show any kind of necessity warranting the Court to draw a presumption that the defendant might abscond or leave the territory. The learned trial judge has assigned cogent reasons for rejecting the application.

This Court does not find any reasons to interfere with the same.

Accordingly, CO 2946 of 2025 stands dismissed.

There will be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Hiranmay Bhattacharyya, J.)