

Sl.8
21.08.2025
Court No.6
BP

C.O. 3030 of 2025

Dharamshila Debi
-versus-
Sri Ram Kumar Singh & Ors.

Mr. Siddhartha Banerjee
Mr. Partha Sarathi Chatterjee
Mr. Dyutiman Banerjee
Mr. Debayan Roy
... for the petitioner

On the prayer of Mr. Banerjee, learned advocate appearing for the petitioner, leave is granted to the learned advocate on record of the petitioner to correct the cause title of the civil revisional application, here and now.

This application under Article 227 of the Constitution of India is at the instance of a third party and is directed against an order being no. 101 dated 13th May, 2025 in Miscellaneous Case No. 24 of 2024 and the order being no.103 dated 17th May, 2025 in Title Execution Case No. 2 of 2014 both passed by the learned Civil Judge (Senior Division), 1st Court at Asansol.

By the order being no. 101 dated 13th May, 2025 the Miscellaneous Case No. 24 of 2024 arising out of an application under Order 21 Rule 58 of the Code of Civil Procedure stood rejected.

Mr. Banerjee, learned advocate appearing for the petitioner submits that the said order is an appealable order and in view thereof he prays for leave to withdraw

the civil revisional application in respect of the said order with liberty to approach the appropriate forum. He further submits that the petitioner is aggrieved by the order being no. 103 dated 17th May, 2025 as by the said order the joint property belonging to the petitioner and the judgement debtor was directed to be partitioned. He, therefore, submits that for such reason the petitioner intends to proceed with the civil revisional application as against the said order. He further submits that Order 21 Rule 54 of the Code of Civil Procedure only permits a prohibitory order to be passed against a judgement debtor and not against any third party. He submits that the order impugned affects the right of the petitioner herein who is one of the co-owner of a property which was the subject matter of attachment.

Order 21 Rule 54(1) of the Code of Civil Procedure states that where the property is immovable, the attachment shall be made by an order prohibiting the judgement debtor from transferring or charging the property in any way, and all persons from taking any benefit from such transfer or charge.

After going through the impugned order this Court finds that the learned judge of the executing court passed an order prohibiting and restraining the judgement debtor until further orders from transferring, alienating or creating any charge upon the property held by the judgement debtor as per deed no. 2161/1997

whether by way of sale, gift, mortgage, or otherwise, in favour of any person. It is not in dispute that the petitioner herein was not a party to the suit as well as the execution proceedings and the miscellaneous case filed under Order 21 Rule 58 of the Code of Civil Procedure already stood dismissed by an earlier order.

Thus, this Court is not inclined to entertain a challenge to the order dated 17th May, 2025 at the instance of a person who is not a party to the execution proceedings. It is observed that since the petitioner is not a party to the said proceeding, the observations made therein cannot bind the petitioner.

With the above observations, the civil revisional application insofar as the same is directed against an order being no. 103 dated 17th May, 2025 stands disposed of.

With regard to the challenge insofar as the order being no. 101 dated 13th May, 2025 is concerned, the civil revisional application to that extent stands withdrawn with liberty to the petitioner to challenge the order being no.101 dated 13th May, 2025 before the appropriate forum in accordance with law.

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.)