

D/L- 25
27/08/2025
Ct. No.-6
Aritra

C.O. 3128 of 2025

**Smt. Dipali Roy
Vs.
Sri Susanta Roy**

Mr. Pradip Kumar Majumdar

....for the petitioner

Mr. Kushal Chatterjee
Mr. Shibjit Mitra

....for the opposite party

This application under Article 227 of the Constitution of India is at the instance of the plaintiff and is directed against an order dated July 18, 2025 passed by the learned Civil Judge (Jr. Div.) at Bidhannagar in Title Suit No.209 of 2009.

By the order impugned, the application filed by the petitioner praying for issuing summons to Manju Dutta (Majumder) to adduce evidence stood rejected only on the ground that the document being Exhibit-F is not available in the record.

The learned advocate appearing for the petitioner submits that the document which has been annexed at page 19 of the civil revision application which is a letter dated November 24, 1996 issued by the Manju Dutta (Majumder) was marked as Exhibit-F and the same is available in the record.

Mr. Chatterjee, learned advocate appearing for the opposite party does not dispute the submission of the learned advocate for the petitioner that the said

document dated November 24, 1996 was marked as Exhibit-F and the same is available on record.

This Court, finds that the learned trial judge without considering the merits of the application rejected the same only on the ground that Exhibit-F is not available in the records. This Court holds that the learned trial judge proceeded without considering the materials available in the records.

Since it is not dispute that Exhibit-F is available in the records of the Title Suit No.209 of 2009, this Court is of the considered view that the impugned order suffers from infirmity. Accordingly, the impugned order is set aside.

The application filed by the petitioner praying for issuance of summons upon Manju Dutta (Majumder) to adduce evidence stands restored to the file of the learned Civil Judge (Jr. Div.) at Bidhannagar. The learned trial judge is requested to consider the said application on merits and dispose of the same after giving an opportunity of hearing to the respective parties as expeditiously as possible but preferably within a period of four (4) weeks from the date of receipt of a server copy of this order.

With the above observations and directions, CO 3128 of 2025 stands disposed of.

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.)