

Court No. 6
(265719)

03.09.2025
(AD 14)
(S. Banerjee)

CO 3149 of 2025

Narayan Chandra Ghosh
Vs.
Smt. Dipika Bhowmik & Ors.

Mr. Bhattacharya
Ms. Mohona Das

... for the petitioner

Mr. Satyam Mukherjee
Ms. Sayani Ahmed
Mr. Saibal Rakshit

... for the opposite party no. 1

This application under Article 227 of the Constitution of India is at the instance of the plaintiff and is directed against an order being no. 89 dated June 24, 2025, passed by the learned Civil Judge (Jr. Division) 1st Court at Barasat in Misc. Case No. 18 of 2023. By the order impugned, the misc. case under Order 9 Rule 13 of the Civil Procedure Code was allowed and the ex parte judgment and decree passed in Title Suit No. 1008 of 2015 was set aside.

Mr. Bhattacharya, learned advocate appearing for the petitioner submits that the learned trial judge allowed the prayer of the petitioner for substituted service and in terms thereof, the petitioner published an advertisement of the summons in the Bengali daily Bartaman on September 7, 2016. He further submits

that the paper publication was accepted and the suit was directed to proceed ex parte against all the defendants.

Heard the learned advocate for the opposite party no. 1 on such submission.

It is not in dispute that the misc. case under Order 9 Rule 13 of the Civil Procedure Code was filed within 30 days from the date of knowledge after receiving the certified copies. Record reveals that the application under Order 5 Rule 20 of the Civil Procedure Code for paper publication was allowed on July 28, 2016 and the petitioner was directed to file the draft for publication in the court on the next day. But on November 1, 2016, the plaintiff filed the copy of the paper publication dated September 7, 2016 instead of filing the draft publication. The learned trial judge noted that the publication was made in Bengali newspaper Bartaman but the opposite party no. 1 herein, who was the petitioner in the misc. case, was residing in Jharkhand when the publication was made. The learned trial judge after noting that the local language of Jharkhand is mainly Hindi opined that the paper publication in a Bengali newspaper cannot be presumed to be in widely circulated newspaper in Jharkhand. The learned trial judge further recorded a factual finding that the address of

the opposite party at Jharkhand was known to the petitioner herein as would also be evident from the cause-title of the Title Suit No. 1008 of 2015. The learned trial judge recorded that the petitioner had the knowledge that the opposite party was residing in Jharkhand at the time of filing of the suit. In the light of the aforesaid observation the learned trial judge observed that the service of summons upon the opposite party through advertisement in Bengali daily Bartaman, cannot be considered as a good service. The impugned order is a well-reasoned order.

For such reason, this court is not inclined to interfere with the order impugned.

At this stage Mr. Bhattacharya, learned advocate appearing for the petitioner submits that the hearing of the suit be expedited.

Learned advocate appearing for the opposite party no. 1/defendant no. 3 herein submits that the date of appearance of the defendant no. 3 in the suit is September 16, 2025. He assures this court that the defendant no. 3 as well as other defendants shall appear in the suit on the next date.

The learned Civil Judge (Jr. Division) 1st Court at Barasat is requested to dispose of Title Suit No. 1008 of 2015 as expeditiously as possible without

granting any unnecessary adjournment to either of the parties keeping in mind that the suit which is a suit for eviction, is pending from the year 2015.

Accordingly, CO 3149 of 2025 stands disposed of.

(Hiranmay Bhattacharyya, J.)