

M/L- 6
01/09/2025
Ct. No.-6
Aritra

C.O. 3127 of 2025

**Pramila Sahani
Vs.
Sri Sukumar Bera**

Mr. Debasis Sur
Mr. Dilip Kumar Das
Mr. Hare Krishna Halder

....for the petitioner

This application under Article 227 of the Constitution of India is at the instance of the judgment-debtor and is directed against an order dated May 22, 2025 passed by the learned Civil Judge (Jr. Div.), 2nd Court at Chandernagore, District-Hooghly in Miscellaneous Judicial Case No.29 of 2024 arising out of Title Execution Case No.4 of 2020.

By the said order, the Miscellaneous Judicial Case No.29 of 2024 stood allowed.

On a query of the Court as to whether an order disposing of the application under Order 21 Rule 97 of the Code of Civil Procedure is a revisable or appealable order, the learned advocate appearing for the petitioner submits that the application was not filed under Order 21 Rule 97 of the Code of Civil Procedure but under Rule 208 of the Civil Rules and Orders.

In the light of the aforesaid submission, this Court is inclined to entertain this civil revision application.

The learned advocate appearing for the judgment-debtor submits that the said miscellaneous judicial case was allowed *ex parte*. He submits that the petitioner filed an application under Section 151 of the Code of Civil Procedure praying for setting aside the order of *ex parte* hearing but the learned judge of the Executing Court without considering the same allowed the petition for police help.

After going through the materials on record, this Court finds that on May 22, 2025 when the miscellaneous judicial case was fixed for hearing and payment of cost of Rs.1000/-, the learned advocate for the judgment-debtor/petitioner herein filed a petition praying for reduction of cost. The learned judge of the Executing Court after considering the said prayer reduced the cost to Rs.500/- and the learned advocate for the petitioner paid the said cost to the decree-holder. Thereafter, the miscellaneous judicial case was taken up for argument and both the sides were heard.

In view of such recording in the order dated May 22, 2025, this Court is not inclined to accept the submission of learned advocate for the petitioner that the petitioner was not given any opportunity of hearing.

The learned judge of the Executing Court took note of the evidence of the P.W.1 and P.W.2 and recorded a factual finding that when the Process Server went to the decretal premises for execution of decree and to deliver

possession of the decretal property, the judgment-debtor put resistance in the execution work of the Process Server for which the Process Server failed to deliver the vacant possession in favour of the decree-holder and the Process Server apprehended every possibility of breach of peace. In view thereof, the learned judge of the Executing Court allowed the prayer for police help.

Since the application for police help was heard in presence of the learned advocates for the parties and the same was disposed of by passing a reasoned order, this Court is not inclined to interfere with the order impugned under Article 227 of the Constitution of India.

Accordingly, CO 3127 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.)