

D/L- 26
03/09/2025
Ct. No.-6
Aritra

C.O. 3238 of 2025

**Mamata Datta
Vs.
Sri Bijoy Gopal Saha & Ors.**

Mr. Partha Chakrobarty
Mr. Rishabh Dutta Gupta

....for the petitioner

This application under Article 227 of the Constitution of India is at the instance of the defendant and is directed against an order dated July 5, 2025 passed by the learned Civil Judge (Jr. Div.), 4th Court at Alipore in Title Execution Case No.32 of 2025.

By the order impugned, the bailiff was directed to break open the padlock and to execute the writ of delivery of possession and to file the execution report on July 18, 2025.

The learned advocate appearing for the petitioner submits that challenging the judgment and decree passed in suit for eviction being Title Suit No.1064 of 2019, the petitioner preferred an appeal being Title Appeal No.80 of 2025. He submits that during the pendency of the said appeal the decree has been executed. He further submits that the possession of the decretal property has been taken on July 14, 2025.

In view thereof, no useful purpose will be served by keeping this civil application pending. This Court is, therefore, of the considered view that the ends of justice

would be sub-served if the learned judge of the first appellate court is requested to dispose of title appeal expeditiously.

The learned advocate appearing for the petitioner submits that the Title Appeal No.80 of 2025 is pending before the learned District Judge at Alipore.

In the light of the submission made by the learned advocate for the petitioner, CO 3238 of 2025 stands disposed of by requesting the learned District Judge at Alipore to make an endeavour to dispose of Title Appeal No.80 of 2025 as expeditiously as possible without granting any unnecessary adjournments to either of the parties if the appeal is otherwise ready for hearing.

The learned advocate appearing for the petitioner submits that an order of injunction be passed restraining the opposite parties from creating any third party interest in the suit property in the meantime.

It will be open to the petitioner herein to pray for appropriate reliefs before the learned judge of the first appellate court. If such prayer is made the learned judge of the first appellate court shall consider the same in accordance with law.

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.)