

Court No. 6
(265719)

12.09.2025
(AD 12)
(S. Banerjee)

CO 3275 of 2025

Ashim Kumar Das
Vs.
Smt. Anjali Das & Anr.

Mr. Ranjan Kali
Ms. Mitul Chakraborty
Ms. Payel Nath

...for the petitioner

Mr. Subhrajit Saha

...for the opposite party no. 1

This application under Article 227 of the Constitution of India is at the instance of the citee no. 2 in a probate proceeding and is directed against order no. 61 dated July 10, 2025 passed by the learned Additional District Judge, Fast Track Court, Kalyani, Nadia in OS 1 of 2015. By the order impugned, the re-examination of PW-1 was closed and a date was fixed for evidence of the defendant's witness.

Mr. Kali, learned advocate appearing for the petitioner submits that on July 10, 2025, the learned advocate of the petitioner herein was not present for which the petitioner prayed for an adjournment.

Such prayer for adjournment was rejected and the re-examination of PW-1 on recall, stood closed.

Learned advocate appearing for the opposite parties submits that the PW-1 is an 80 year old lady and the petitioner is harassing the PW-1 by taking adjournment on frivolous ground.

However, considering the fact that the suit is a probate suit and cross-examination is a valuable right, this court is inclined to allow the prayer of the petitioner to cross-examine the PW-1 on recall subject to payment of cost of Rs. 10,000/- by the petitioner to the opposite party no.1 on or before the next date of hearing before the learned trial judge.

On the next date fixed the PW-1 shall remain present to face cross-examination by the PW-1. The learned trial judge shall allow the petitioner to cross-examine the PW-1 on that date if the cost as directed hereinbefore is paid within the time limit mentioned hereinbefore. The learned trial judge shall thereafter proceed in accordance with law.

With the above observation and directions, CO 3275 of 2025 stands disposed of. The order impugned stands set aside.

It is, however, made clear that in default of payment of the cost, this order shall automatically stand recalled without any further reference to this court and the civil revision shall stand dismissed.

It is also made clear that in the event the petitioner pays the aforesaid amount, the petitioner shall not be liable to pay the cost of Rs. 2,000/- as indicated in the order dated July 10, 2025.

(Hiranmay Bhattacharyya, J.)