

08.12.2025

Item no.DL 9
Court No. 16

Asraf, A.R.(Ct.)

In the High Court at Calcutta
Special Civil Jurisdiction
Appellate Side

Case No. **RVW 279 of 2025**
with
CAN 1 of 2025
in
WPLRT 117 of 2025

In the matter of :
MARJINA BIBI & ORS. *.... Applicants*
VS.
OSMAN SARKAR & ORS. *....Respondents*

For the Applicants :
Mr. Mrinal Kanti Ghosh
Ms. Gopa Mainan *....Advocates*

For the Respondents :
Mr. Sudeep Sanyal
Mr. Sukanta Das
Mr. Chandrachur Lahiri
Ms. Ketaki Ghosh *....Advocates*

For the State :
Mr. Supratim Dhar, Sr. Advocate
Mr. Santimay Bhattacharyya *....Advocates*

1. Affidavit of service filed in Court today is taken on record.
2. Learned counsel for the applicants argues in support of the review application that the review applicants failed to bring to the notice of this Court, at the time when the judgment sought to be reviewed was passed, that a title appeal had been preferred against a decree obtained by the respondents in connection with a suit for

declaration and injunction, further directing the applicant to vacate the suit property, in connection with which an order of stay of operation of such decree has been passed by the Appellate Court.

3. Secondly, it is contended that a co-ordinate Bench judgment of this Court was not pointed out to the Court, as per which the Tribunal does not have the power to grant police help.
4. Learned counsel appearing for the respondents controverts such submissions and places reliance on Rule 8(2) of the West Bengal Land Reforms and Tenancy Tribunal Rules, 1997, which specifically empowers the Tribunal to grant police help if necessary to deliver possession in pursuance of an order of the Tribunal.
5. Insofar as the co-ordinate Bench judgment is concerned, the same was not placed before us at the relevant point of time by the review applicant. In the event all judgments subsisting at the point of time when an order under review was passed but not cited before the court are permitted to be cited at the review stage, there would be no finality to litigation and the entire arguments would be reopened, leading to a *de novo* hearing, which would be palpably *de hors* the scope of the review jurisdiction.

6. That apart, by virtue of Rule 8(2) of the 1997 Rules, there is ample power vested in the Tribunal to grant police help in consonance with our direction.
7. Insofar as the stay order purportedly passed in an appeal against a decree which directed the review applicant to vacate the premises is concerned, the order now sought to be reviewed was not premised on the Civil Court's decree, nor was by way of an implementation or execution of the said decree, but was passed independently in connection with a completely different proceeding. Thus, the said decree of the Civil Court and / or any order of stay thereof, passed in appeal, merely implies that the said decree cannot be executed, which has no bearing at all on the present consideration.
8. Thus, the review application fails on both counts.
9. Accordingly, RVW 279 of 2025 is dismissed on contest without any order as to costs.
10. Consequentially, CAN 1 of 2025 is disposed of as well.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)