

D/L- 18
15/09/2025
Ct. No.-6
Aritra

C.O. 3404 of 2025

**Sukracharyya Maity & Ors.
Vs.
Sri Chittaranjan Maity & Ors.**

Mr. Samiran Giri

....for the petitioners

This application under Article 227 of the Constitution of India is at the instance of the decree-holder and is directed against an order being No.47 dated August 6, 2025 passed by the learned Civil Judge, (Jr. Div.), 2nd Court, Contai in Title Execution Suit No.4 of 2017.

The petitioner filed a suit for declaration of title and for recovery of possession. The said suit was decreed by a judgment and decree dated December 15, 2000 thereby declaring the right, title and interest of the petitioner over the suit land and the petitioner also got a decree for recovery of possession. The decree was drawn up on January 9, 2001. The said decree was put into execution only on December 22, 2017 i.e. that is after a lapse of 17 years.

The learned Judge of the Executing Court rightly applied the provisions of Article 136 of the Limitation Act and dismissed the execution application.

Article 136 of the Limitation Act deals with that execution of any decree (other than a decree granting a mandatory injunction) or order of any civil court. The

period of limitation is 12 years and the time from which such period shall begin to run is when the decree or order becomes enforceable. From the facts recorded hereinbefore it is evident that the decree was put into execution beyond the period of limitation.

Mr. Giri, learned advocate appearing for the petitioner places reliance upon a decision of the Hon'ble Rajasthan High Court in the case of **Babu Puri & Ors. vs. Kalu & Ors.**, reported at **AIR 2005 Rajasthan 77** in support of his contention that the limitation would start to run from the date when the obstruction was made and not from the date of passing of the decree.

After going through the said decision, this Court finds that Article 136 of the Limitation Act was not taken into consideration while passing the said judgment. The said decision cannot be said to be a binding precedent upon this Court.

For all the reasons as aforesaid, this Court is not inclined to interfere with such judgment.

Accordingly, CO 3404 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.)