

D/L- 392
10/09/2025
Ct. No.-6
Aritra

C.O. 3547 of 2024

**Smt. Moumita Ghosh @ Bachhar & Anr.
Vs.
Smt. Shankari Ghose & Ors.**

Ms. Shila Sarkar
Ms. Prajaaini Das

....for the petitioners

Mr. Animesh Paul

....for the opposite party No.1

Affidavit of service filed in Court today is taken on record.

This application under Article 227 of the Constitution of India is at the instance of the pre-emptors in a proceeding under Sections 8 and 9 of the West Bengal Land Reforms Act, 1955 and is directed against an order being No. 27 dated September 10, 2024 passed by the learned Civil Judge (Jr. Div.), 3rd Court at Basirhat, Dist.- North 24-Parganas in Miscellaneous Case No. 17 of 2022.

By the order impugned, the prayer for adjournment was rejected and the miscellaneous case was dismissed for default.

Ms. Sarkar, learned advocate appearing for the petitioner assisted by Mr. Ghosh submits that September 10, 2024 was fixed for filing the examination-in-chief and an adjournment was sought for on the ground that the learned advocate for the petitioner could not draft the affidavit-in-chief.

The learned advocate appearing for the opposite party vehemently opposes the prayer of the petitioner. He submits that the petitioner was trying to drag the miscellaneous case by praying for adjournment on frivolous grounds.

The petitioner had engaged a learned advocate to conduct his case. The draft of the examination-in-chief is to be made by the learned advocate.

After going through the adjournment petition this Court finds that the adjournment was sought for on the ground that the learned advocate could not draft the examination-in-chief. Thus, this Court is of the considered view that litigant should not be penalised for the laches or negligence, if any, on the part of the learned advocate.

However, taking into consideration of the fact that the opposite party had to suffer for the prayer for adjournment made by the petitioner, the opposite party has to be adequately compensated.

In view thereof, the order dated September 10, 2024 is set aside subject to payment of cost of Rs. 2,000/- by the petitioner to the opposite party No. 1 through the learned advocate on record before this Court. Such payment is to be made on or before September 16, 2025.

Accordingly, CO 3547 of 2024 stands disposed of.

The Miscellaneous Case No. 17 of 2022 stands restored to the file of the learned Civil Judge (Jr. Div.), 3rd

Court at Basirhat subject to payment of cost within the time limit as indicated hereinbefore.

It is, however, made clear that in the event the petitioner fails to pay the cost within the time limit as indicated hereinbefore, this order stands automatically recalled and the civil revision application shall stand dismissed.

The parties will be at liberty to approach the learned trial judge for fixing a date for filing of the affidavit-in-chief by the pre-emptor/petitioner herein.

The learned trial judge shall make an endeavour to dispose of the miscellaneous case as expeditiously as possible without granting any unnecessary adjournment to either of the parties.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Hiranmay Bhattacharyya, J.)