

05.12.2025
Ct. No. 06
Item 04
Cp

C.O. No. 3845 of 2025

Sri Purna Chandra Sahu @ Sahoo & Anr.
Vs.
Sri Swapan Kumar Dutta

Mr. Tapan Kumar Mitra
Mrs. Monalisha Mukherjee

.....for the petitioners.

Mr. Sourav Sen
Ms. Subhangi Bhattacharya

.....for the opposite party.

1. This revisional application arises out of an order dated September 22, 2025, passed by the learned Judge, 6th Presidency Small Causes Court at Calcutta in Ejectment Suit No.244 of 2012.
2. By the order impugned, the learned court rejected three applications. However, by order dated November 21, 2025, this court had categorically mentioned that the revisional application shall be entertained only to consider whether the order rejecting an application under Order 18 Rule 17 of the Code of Civil Procedure for recall of the PW-1, namely, Swapan Kumar Dutta, was wrongly rejected or not.
3. The petitioner contends that Swapan Kumar Dutta suppressed the factum of the death of the mother. The petitioner wanted to recall the PW1 to put the question as to whether the mother had expired and whether the

death certificate had been produced. It is further stated that Swapan Kumar Dutta is also a part owner of another premise adjacent to the suit property and such factum had been suppressed in the proceeding. Thus, Swapan Kumar Dutta is required to be recalled and such questions are to be put to Swapan Kumar Dutta in his re-examination.

4. Learned advocate for the petitioners submits that the suit is for eviction of the petitioners from a shop room on the ground floor of premises No. 34A Mahendra Sreemani Street. Neither the death of the mother nor part ownership of Swapan Kumar Dutta in a residential house, would change the nature and character of such requirement.
5. I have perused the plaint. The schedule of the suit property is quoted below:

“All that one north facing shop room on the ground floor of premises No. 34A, Mahendra Sreemani Street, Kolkata-700009, P.S. Amherst Street butted and bounded as follows:-

On the East: Bed room;

On the North: Footpath facing Mahendra Sreemani Street;

On the South: Courtyard/Kitchen Room;

On the West: Main Entrance.”

6. The requirement of the plaintiff as narrated in the plaint, is also quoted below:-

“The Plaintiff and the members of his family jointly further require the following rooms for the following purposes for the following persons:-

- (1) One living room for mother of the Plaintiff (where Plaintiff's father lived and as per Plaintiff's father will during her lifetime) on the first floor.
- (2) One room for business of the son of the Plaintiff in the ground floor.
- (3) One room for the unmarried daughter of the plaintiff.
- (4) One living room for Plaintiff's son Arjun Krishna Dutta.
- (5) One Guest Room.
- (6) One Servant's room.
- (7) One study room.”

7. Even if the accommodation available for the mother has been mentioned and the mother is no more. The suit is for eviction of the tenant from the shop room and the requirement of the son to run a business from the said shop room has been clearly mentioned. It is for the plaintiff to prove his case for reasonable requirement.

8. Admittedly, the mother has expired and no one is disputing such fact. The requirement for the mother has been extinguished. The learned trial judge will decide the issue as to whether the reasonable requirement for the shop room has gone away with the death of the mother, at the final hearing of the suit.

9. The cost of Rs.5000/- is waived.

10. The order impugned is not interfered with.

11. Accordingly the revisional application is disposed of.

12. Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)