

17.11.2025
Ct. No. 06
Sl. No.38
Cp

C.O. No. 3923 of 2025

Tapasi Sirkar
Vs.
M/s. P. C. Chandra Estates Pvt. Ltd.

Mr. Rahul Singh

.....for the petitioner.

The petitioner is aggrieved by an order dated September 18, 2025, passed by the learned Judge, 3rd Bench, Presidency Small Causes Court at Calcutta in Ejectment Suit No.178 of 2021.

By the order impugned, the learned court expunged the name of the defendant no. 1 from the array of defendants. Admittedly the defendant no. 1 was not contesting the suit and the suit was proceeding ex parte against the said defendant. The defendant no. 1 did not ever file the written statement. The defendant no. 3 is aggrieved by the order on the ground that names of the heirs of the deceased defendant were made known to the plaintiff, but the plaintiff failed to incorporate the same.

The court was of the view that the plaintiff was the dominus litis and had a choice not to proceed against the heirs of the defendant no. 1. Moreover, Order 22 Rule 4(4) allowed the plaintiff to seek exemption from substituting the heirs of the uncontesting defendant in the proceeding.

The heirs of the defendant no. 1 have not come up before the court. They have not expressed any desire to contest the proceeding upon death of their predecessor. It is also submitted that the defendants are also related to each other.

The learned court has exercised a discretion. A discretionary order should not be interfered with, unless it is found to be ex facie perverse. The law has been applied.

Under such circumstances, the impugned order does not call for any interference.

The revisional application is accordingly disposed of. There shall be no order as to costs.

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

(Shampa Sarkar, J.)