

19.11.2025
Ct. No. 06
Sl. No.39
skg

C.O. No. 3955 of 2025

Gour Das & Ors.
Vs.
Monnabar Hossain & Ors.

Mrs. Shohini Chakraborty,
Ms. Prajaaini Das,

.....for the petitioners

This application is directed against the orders dated September 16, 2025 and September 22, 2025 passed by the learned Civil Judge (Jr. Div.) at Balurghat, Dakshin Dinajpur in O.C. Execution Case no. 03 of 2009.

In a partition suit, after the preliminary decree was passed, the petitioners purchased the share of one of the defendants in the suit, that is, the defendant no.7. The preliminary decree was passed ex parte against the defendant no.7. The final decree was passed and the partition commissioner had already partitioned the property in metes and bounds. As there was resistance, an execution case was filed by the opposite party nos.1 to 6/ decree holders. The petitioner contested the said proceeding as judgment debtors. The learned Court issued the writ of summons, without granting stay of the execution proceeding.

Mrs. Chakraborty submits that when the petitioners purchased the property from the defendant

no. 7, no disclosure as to the pendency of the suit had been made. Even when the partition commissioner was undertaking the exercise of partitioning the property amongst the shareholders, the petitioner was not consulted. As such, the petitioner was totally unaware of what was going on until they were added as judgment debtors in the execution case.

It is further submitted that another suit has been filed by the petitioners for cancellation of the decree passed in the partition suit. Admittedly, the petitioners are the judgment debtors in the execution case. They have not set up any independent title from that of the defendant no.7.

Under such circumstances, the learned Court cannot be said to have acted either illegally or material irregularity in proceeding with the execution case. The decree had been partly executed. The petitioners had been contesting the execution case since long, as per the records.

The petitioner has already filed a suit, but it is informed that no interim protection has been granted in the said suit.

Under such circumstances, the revisional application fails without any interference with the order impugned.

Mrs. Chakraborty submits that the petitioners are willing to purchase their portion by compensating the other decree holders. This court does not need to express any opinion on such submission.

The learned court shall proceed in accordance with law in the execution case.

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.)