

Court No. 6
(265719)

06.03.2025
(AD 4)
(S. Banerjee)

CO 3818 of 2024

Abhijit Basak & Anr.
Vs.
Arun Chowdhury

CAN 1 of 2024
CAN 2 of 2025

Mr. Supriyo Chattopadhyay
Mr. Subhajyoti Chandra

...for the petitioners

Mr. Partha Pratim Roy
Mr. Samrat Dey Paul
Mr. Argha Chowdhury

...for the opposite party

Affidavit in opposition filed in court today is
taken on record.

Though this matter is appearing under the
heading 'Extension of interim order', with consent of
the learned advocates of the respective parties the
main civil revisional application is taken up for
hearing.

This application under Article 227 of the
Constitution of India is at the instance of the
defendant and is directed against an order dated
October 7, 2024 passed by the learned Civil Judge
(Jr. Division) at Bidhannagar, North 24 Parganas in
Misc. Case No. 12 of 2023 arising out of Title
Execution Case No. 21 of 2022.

The petitioners herein filed the aforesaid miscellaneous case for setting aside the ex parte decree dated September 12, 2022. In the said misc. case the petitioner herein applied for examination of PW-2, namely Mousumi Basak on commission.

On October 7, 2024, the petitioners prayed for an adjournment which was allowed subject to payment of cost of Rs. 10,000/-. Challenging such order the petitioners have approached this Court.

Mr. Chattopadhhay, learned advocate appearing for the petitioners submits that PW-2 is suffering from various ailments and it is not possible for her to dispose of appearing before the Court and for such reason the application for examination of PW-2 on commission was filed.

Such application is pending before the learned Civil Judge.

Mr. Roy, learned advocate appearing for the opposite parties herein, on instruction from his client, submits that this Court may allow the prayer of the petitioners for examination of PW-2 on commission but a time limit should be fixed for such examination on commission.

In view of such submission of Mr. Roy, learned advocate for the opposite parties herein, the

application filed by the petitioners before the learned Civil Judge praying for examination of PW-2, namely Mousumi Basak, on commission, stands allowed. The impugned order, accordingly, stands set aside.

It has been uniformly submitted by the learned advocate for the parties that April 5, 2025 has been fixed for evidence of PW-2.

Parties will be at liberty to approach the learned Civil Judge (Jr. Division), Bidhannagar, North 24 Parganas for appointment of a Commissioner before whom the PW-2 shall depose.

Since April 5, 2005 has been fixed for evidence of PW-2, this Court requests the learned Civil Judge (Jr. Division), Bidhannagar, North 24 Parganas to appoint a Commissioner prior to April 5, 2025 so that the evidence of PW-2 can commence on April 5, 2025.

Learned trial Judge is further requested to ensure that the evidence on commission is completed as expeditiously as possible, preferably within a period of three weeks from the date fixed for evidence of PW-2, without granting any unnecessary adjournment to either of the parties.

CO 3818 of 2024 stand disposed of accordingly.

(Hiranmay Bhattacharyya, J.)