

22.12.2025

Item no.DL 3
Court No. 06

Sudipta

In the High Court at Calcutta

Civil Revisional Jurisdiction

Appellate Side

Case No. CO 4391 of 2025

In the matter of :

AMAL MUKHERJEE

.... Petitioner

VS.

ASHOK MUKHERJEE & ANR.

....Opposite Parties

For the Petitioner :

Mr. Argha Banerjee

....Advocate

For the Opposite Parties:

Ms. Juin Dutta Chakraborty

Ms. Arpita Kundu

....Advocates

1. The revisional application arises out of an order dated November 24, 2025, passed by the learned Civil Judge (Senior Division), 2nd Court, Uluberia, Howrah, in Title Suit No. 175 of 2016. By the order impugned the learned Court held that the opportunity of being heard could be availed of by the defendant, subject to payment of cost as well as the Commissioner's fees. The prayer for adjournment made by the defendant / petitioner was rejected by the court, inter alia, holding that the defendant had not taken steps with regard to payment of Commissioner's fees and had repeatedly failed to appear before the Court. As a result of which, three applications dated

December 1, 2020; April 12, 2022 and July 16, 2022 were rejected *in limine*.

2. The rejection of the applications in my view, has not caused any prejudice to the defendant / petitioner. It is on record that the defendant no. 2 expired and the said defendant had been expunged from the array of defendants. The conduct of the petitioner, as recorded by the learned Court, does not seem to be proper.
3. The petitioner had sought for local inspection. When the application for local inspection was kept pending and the suit was fixed for hearing, the petitioner approached this Court.
4. A Co-ordinate Bench directed the learned Trial Judge to hear out the issue of acceptance of the Commissioner's report along with the three applications.
5. The petitioner failed to move the three applications and also failed to file a written objection to the Commissioner's report. It is also on the record that the Commissioner's fees was not paid by the petitioner.
6. Accordingly, another Commissioner was appointed by the Court and the plaintiff offered to pay the Commissioner's fees.

7. It is submitted by the learned Advocate for the opposite parties that the Commission has been held and the report had been filed in Court. Acceptance of the report is still awaited.
8. Under such circumstances, the petitioner is permitted to file a written objection to the Commissioner's report within a period of one month from date and the learned Court shall accept such written objection and allow the defendant / petitioner to put forward his objections at the time of acceptance of the report, subject to payment of cost of Rs.10,000/- to the plaintiff.
9. The order impugned is accordingly modified.
10. The cost shall be paid to the plaintiff in the suit, through their learned advocate, in cash.
11. Accordingly, the revisional application being CO 4391 of 2025 stands disposed of.
12. All parties shall act on the basis of the server copy of this order duly downloaded from the official website of this Court.

(Shampa Sarkar, J.)