

01.09.2025
Item No.19.
Court No.06.
S. De
265719

**C.O. 4230 of 2024
With
CAN 1 of 2025**

**Mrinal Kanti Majumdar & Anr.
Vs.
Latika Majumdar & Ors.**

Mrs. Sulekha Mitra,
Mr. Manas Kr. Das,
Mr. Aritra Kr. Thakdar, ...for the petitionera.

In re : CAN 1 of 2025

This is an application praying for taking note of the death of the petitioner no.1 and for adding his wife, namely, Smt. Madhuri Majumdar in place and stead of the petitioner no.1. It has been stated in the said application that two of the heirs of the deceased petitioner no.1 are already on record as the petitioner no.2 and the opposite party no.3.

In view thereof, the application being CAN 1 of 2025 stands allowed.

The wife of the petitioner no.1 namely, Smt. Madhuri Majumdar is added as an heir of the petitioner no.1 in place and stead of the deceased petitioner no.1.

In re : C.O. 4230 of 2024

This application under Article 227 of the Constitution of India is at the instance of the defendants and is directed against an order being

no.56 dated November 19, 2024, passed by the learned Civil Judge, (Jr. Divn.), 2nd Court, Burdwan, now Purba Bardhaman in Title Suit No.133 of 2025.

By the order impugned, the application challenging the maintainability of the instant suit was rejected.

The learned advocate appearing for the petitioner submits that during the pendency of the said suit, the suit property has been transferred by the petitioner no.1 in favour of the petitioner no.2. She further submits that the plaintiff/opposite party no.1 is not in possession of the suit property and, therefore, there is no cause of action for the plaintiff to proceed with the instant suit.

The opposite party nos. 1, 2 and 3 filed a suit for recovery of possession and to allow the opposite party to reside in the said property.

The instant suit has been filed praying for recovery of possession alleging that the plaintiffs have been dispossessed from the suit property without due process of law. The said suit was filed within 3 months of such alleged dispossession. Such a suit is maintainable under Section 6 of the Specific Relief Act. Whether the plaintiffs were not residing in the suit property since 22.02.2015 cannot be decided at this stage.

Whether the plaintiff would ultimately succeed in the instant suit would depend upon the evidence to be led by the respective parties at the time of trial.

The learned Trial Judge was right in rejecting the application challenging the maintainability of the said suit.

For such reason, this Court is not inclined to interfere with the order impugned.

C.O. 4230 of 2024 is, accordingly, disposed of.

(Hiranmay Bhattacharyya, J.)