

JPD. 4.
July 30, 2025.
MNS.

CALCUTTA HIGH COURT
In The Circuit Bench at Jalpaiguri
Appellate Side

CO No. 27 of 2025

Sri Dhan Bahadur Gurung
Vs.
Sri Ashit Rana and another

Mr. Nabankur Paul,
Ms. Sutapa Sen Paul,
Mr. Bodhisatya Ghosh,
Ms. Srijana Thapa

... for the petitioner.

Mr. Ujjwal Luksom,
Mr. Satyajit Pal,
Mr. Mayank Bhandari

...for the opposite parties.

1. The present challenge has been preferred against an order whereby the subsequent suit of the petitioner challenging a particular deed of transfer has been stayed on the ground that another suit filed, prior to the petitioner's suit, by the elder brother of the plaintiff/petitioner challenging the self-same deed, is pending.
2. Learned counsel for the petitioner submits that the parties to the two suits are not identical. That apart, a relief for recovery of possession has been sought in the present suit, which is not there in the other suit.

3. Upon hearing learned counsel for the parties, this Court is of the opinion that there is no jurisdictional error in the impugned order inasmuch as the self-same subject-matter is involved substantially and directly in both the two suits, since the principal relief in both the suits is a challenge to the self-same deed, thus satisfying the criterion of Section 10 of the Code of Civil Procedure.
4. Although all the parties to the two suits are not identical, since the subject-matter of the two suits are the same, the learned trial Judge was justified in granting stay.
5. In any event, it will be open to the parties to the two suits to seek impleadment of the omitted parties in their respective suits and / or seek impleadment in each other's suit. As such, I do not find any reason to interfere with the impugned order.
6. Accordingly, CO No. 27 of 2025 is disposed of without interfering with the impugned order, by granting liberty to the petitioner to implead the other parties of Title Suit No. 2 of 2021, who are not parties to the petitioner's suit, in his suit.
7. It is further clarified that the order of stay granted by the impugned order shall not prevent

interlocutory applications in respect of Title Suit No. 3 of 2023 being taken up by the concerned court, since the stay granted by the impugned order will operate only in respect of the hearing of the suit.

8. There will be no order as to costs.

(Sabyasachi Bhattacharyya, J.)