

ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
ORIGINAL SIDE

APOT/274/2025
IA NO: GA/1/2025

SURENDRA AGARWALA
VERSUS
INDIRA GUPTA AND ORS.

BEFORE:
The Hon'ble JUSTICE ARIJIT BANERJEE
AND
The Hon'ble JUSTICE OM NARAYAN RAI
Date : 25th September, 2025.

Appearance:

Mr. Shantanu Mishra, Adv.
Mr. Arun Kumar Mishra, Adv.
...for the appellant

Mr. Aritra Basu, Adv.
Mr. Aditya Ganodia, Adv.
Mr. Pintu Ghosh, Adv.
...for respondent nos. 2 & 7

Mr. Rishabh Karnani, Adv.
Mr. S.N. Pandey, Adv.
...for respondent no.5

Dictated by Arijit Banerjee, J.

The Court: The appellant is the plaintiff in a partition suit. In the suit, the appellant filed an application being GA/13/2025 praying for the following orders:-

“a) Direction upon the respondents, their agents and assigns to immediately restore and ensure uninterrupted use of the lift to the 3rd floor at premises no. 58, Charu Chandra Place (East), Kolkata-700033;

b) Direction upon the respondents to comply with such restoration within 48 hours from the date of order.”

On the said application, the Learned Judge has passed the following order:-

“The Court:- Exchange of affidavit is yet to be complete.

From the submission of the Learned Counsels it appears that without affidavit, this application cannot be heard properly to address the issue concerned.

Affidavit in opposition shall be filed within two weeks from date; reply thereto, if any, be filed within one week thereafter.

In the meantime, one electrical engineer may be appointed by the Learned Registrar, Original Side, to go and inspect the 3rd floor gate of the lift of the concerned property and submit a Report to this Court on or before the returnable date.

After appointment of the Electrical Engineer, notice shall be sent by the Learned Registrar, Original Side to the all concerned.

The matter will appear in the list on 21st November, 2025 for hearing and further Order.

The suit will also appear in the list on the same date for framing of issues.

Discovery, inspection, disclosure of documents as well as affidavit of admission and denial of documents shall be complete in the meantime.”

Being aggrieved, the plaintiff has come up by way of this appeal.

We are not inclined to entertain this appeal. The matter is pending before the Learned Single Judge.

Learned Advocate for the appellant/plaintiff says that the plaintiff's wife suffers from acute arthritis and has extreme difficulty in moving.

Therefore, without the lift service, tremendous hardship is being caused to the wife of the appellant who resides on the third floor of the building in question. Learned Advocate says that the matter should be expedited.

We direct the Electrical Engineer to be appointed by the Learned Registrar, Original Side, in terms of the learned Single Judge's order, to file his report after due inspection of the elevator in question, before the learned Single Judge on October 24, 2025, when this Court re-opens after the Puja Vacation. The respondents should also file their affidavits-in-opposition to the plaintiff's application on that date.

We request the Learned Single Judge to pre-pone the next date so that the issue regarding the elevator can be resolved by the end of October, 2025. We make this request only on humanitarian ground as the plaintiff says that his wife is suffering acute hardship.

The appeal and the connected application stand disposed of.

(ARIJIT BANERJEE, J.)

(OM NARAYAN RAI, J.)