

09.02.2026
SL No.14
Court No.6
(gc)

CO 55 of 2026

**Swapan Kumar Mondal & Ors.
Vs.
Amalendu Das & Ors.**

Mr. Matibur Rahaman,
Mr. Sankar Paul,
Ms. Shipra Roy,
Ms. Shilpa Sarkar

.....for the Petitioners.

1. This revisional application arises out of an order dated November 18, 2025 passed by the learned Civil Judge (Jr. Division) at Tehatta, Nadia in Misc. Case No.7 of 2022 arising out of Title Execution Case No.11 of 2017. The suit was decreed ex parte. The defendants were restrained from dispossessing the plaintiff from the suit property without due process of law. The appeal preferred therefrom was dismissed. The decree was in the nature of perpetual injunction and the Trial Court and the Appellate Court were of the view that the plaintiffs were in settled possession on the date of the passing of the decree and also on the date of dismissal of the appeal. Thereafter, an execution case was filed as it was alleged that the defendants had forcibly taken actual possession and were enjoying the property. The court relied on the provisions of Order 21 Rule 32(5) of CPC and the decision of the Delhi High Court in **Ashok**

Kumar & Ors. Vs. Khyali Ram & Ors. reported at ***2023 SCC OnLine Del 2882 (Delhi HC)***. The Delhi High Court held that even in a case where the decree for permanent injunction is passed, the decree-holder can complain by filing an execution case if he is dispossessed at a later stage. Order 21 Rule 32(5) permits the executing Court to issue warrant of possession and restoration of possession. Reliance was also placed on the decision of ***Nanda Vs. Ram Dhan, P&H HC, CR No.3489 of 2000***. The Court was satisfied that the judgment-debtors had violated the decree, despite being restrained from dispossessing the decree-holders without due process of law. The judgment debtors had taken over possession of the decretal premises in defiance of the Court's mandate. The materials on record coupled with the absence of any convincing rebuttal from the judgment-debtors, established a clear breach of the decree for perpetual injunction. Order 21 Rule 32(5) empowered the executing Court to ensure effective enforcement of the order of injunction by directing restoration of possession. The decree could not be rendered futile, by any act of deliberate dispossession in the subsequent stage.

2. Under such circumstances, as the Court bailiff was resisted from restoring possession to the decree-holder,

the Court allowed an application for grant of police help and directed the SP, Nadia to file a report on the cost.

3. Under such circumstances, I do not find any irregularity in the order impugned. The learned Court followed the provision of Order 21 Rule 32 (5) of CPC. Upon factually being convinced that the decree-holder had been dispossessed without due process of law, by the judgment debtor who had disobeyed the decree, the court directed restoration of possession through police help. The Court also finds from the relevant documents that the schedule of the property in the plaint, decree and in the tabular statement filed by the decree-holder are the same. Thus, there is no confusion with regard to the identity of the property.
4. Under such circumstances, the revisional application is dismissed.
5. If the petitioners are successful before any superior forum, the petitioners can pray for necessary orders of restoration of possession.
6. There shall be no order as to costs.
7. Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)