

10.6.2026
Ct. no. 6
S/L. 1
Samarpita

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
(Appellate Side)

C.O. 154 of 2025

**Marsaf Khan @ Mosraf Khan @
Mashammad Mosraf Khan
-Vs-
Lili Sadhukhan & Ors.**

Mr. Abhilash Chatterjee,
Ms. Najmee Parveen
...for the petitioner.

Mr. Tanmoy Mukherjee,
Mr. Soumava Santra.
... for the Opposite Parties

1. This revisional application is directed against an order dated December 17, 2024 passed by the learned Civil Judge (Junior Division), 5th Court at Howrah in Title Suit No. 384 of 2018, whereby, the petitioner's application under Section 32 read with Order XVI Rule 10(2) of the Code of Civil Procedure, 1908 has been rejected.
2. Title Suit No. 384 of 2018 has been instituted by the opposite parties against the petitioner praying *inter alia* for a decree of eviction and *mesne profits*. The plaintiff/opposite parties contend that the petitioner is a tenant in respect of a part of the suit property and a licensee in respect of the other part thereof.
3. The petitioner has been contesting the suit by filing a written statement.
4. In the said suit, the petitioner filed an application seeking issuance of summons upon the Special Land

Acquisition Officer (General) which was allowed and summons was issued. It is the petitioner's case that despite service of summons the Special Land Acquisition Officer (General) did not appear before the learned Court in answer of the summons.

5. Alleging defiance of summons by the said Special Land Acquisition Officer (General), the petitioner took out an application under Section 32 read with Order XVI Rule 10(2) of the Code praying for issuance of warrant of arrest and or proclamation against the Special Land Acquisition Officer (General). Such application has been rejected by learned Trial Court by the impugned order.
6. Feeling aggrieved thereby, the petitioner has approached this Court by way of the present revisional application.
7. Mr. Chatterjee, learned advocate appearing for the petitioner invites the attention of this Court to the track consignment reports (postal track reports) appended at pages 79 and 80 of the revisional application and demonstrates that summonses personally sent by the petitioner to the Special Land Acquisition Officer (General) through speed post were served upon such officer on November 22, 2023 and December 14, 2023. He further submits that, on December 12, 2023, summons was also served on the said officer, through the process server of the Court.

8. He submits that in such view of the matter, the learned Trial Court was remiss in concluding that summons was not duly served upon or delivered to the Special Land Acquisition Officer (General) and that being so the learned Trial Court should have exercised jurisdiction under Section 32 read with Order XVI Rule 10(2) of the Code.
9. He further submits that upon being served with summons, it becomes the bounden duty of the person concerned to honour the same and attend Court in answer to the summons, notwithstanding the post that he holds. In support of such contention, he relies on a judgement of the Hon'ble High Court of Madras in ***T.P. Mani -vs- Palanisamy & Anr*** reported at ***(2009) 5 CTC 117***.
10. Mr. Mukherjee, learned advocate appearing for the opposite party submits the impugned order calls for no interference. He invites the attention of this Court to the averments made by the petitioner in the written statement filed by him (page 38 of the revisional application) to demonstrate that the petitioner's own case lacks clarity, as to whether, the portion which is under occupation of the petitioner and claimed to be owned by the opposite party has been acquired by the State or a portion other than that has been acquired, inasmuch as the petitioner's case is that only some portion of the "entire property" has been acquired.

11. He further submits that the petitioner has not indicated anywhere what right the petitioner has in respect of the suit property that the petitioner seeks to prove.
12. Mr. Mukherjee, further submits that with such a doubtful case, there could have been no occasion for the petitioner to call for the appearance of the Special Land Acquisition Officer (General) before the learned Trial Court so as to prove a confounded case.
13. He next submits that the learned Trial Court has rightly taken into consideration the provisions of Section 32 of the Code of Civil Procedure which speaks about compelling attendance of a person. It is submitted that in the case at hand the petitioner has admittedly effected service upon the office of the concerned officer while addressing such officer by designation.
14. Heard learned advocates appearing for the respective parties and considered the material on record.
15. It is evident from application filed by the petitioner under Section 32 read with Order XVI Rule 10(2) of the Code that the petitioner is desirous of summoning the Government Officer concerned, for the purpose of proving a search report allegedly obtained from the Department of L.A. Collectorate and a photostat copy whereof has been produced in evidence which has been marked "X" for identification.

16. There is no explanation as to why a certified copy of such report could not be obtained and produced in Court for proving the same. The same could have been easily done by the petitioner. There is nothing on record to indicate what steps have been taken to obtain to a certified copy thereof. There can certainly be no justification for summoning a public officer/government officer to prove something for which no legally viable step has been taken by the litigant himself despite avenue therefor being available.

17. Furthermore in any view of the matter, given the case run by the petitioner in the written statement (as pointed out by Mr. Mukherjee that) according to which only a portion of the entire property has been acquired by the State and it is not clear as to what is the petitioners right in respect thereof, the evidence of the Special Land Acquisition Officer (General) would not be of any help that too when only a photostat copy of a search report has been produced.

18. The judgement of the Hon'ble Madras High Court in **T.P.Mani** (supra) in paragraph 15 thereof clearly holds that before issuance of proclamation which is an extreme step, the Court should be satisfied that the evidence of the witness is material in nature.

19. Moreover, the observation in the order impugned and the postal track reports indicate that service was affected to the office of Special Land Acquisition

Officer (General). Such service (even if accepted to be true) was effected as far back as in December 2023. The officer concerned has not been named in the summons. It is therefore not known as to whether at present the same officer who was in the chair in the year 2023 is there still holding the same office or not. Issuance of warrant of arrest or proclamation against such an officer would be a highly undesirable step. The learned Trial Court has clearly weighed this aspect while passing the order impugned and the same cannot be faulted.

20. This Court is informed that the suit is ripe for arguments and the next date is fixed for final arguments. Passing any direction for reopening of evidence at this stage is even otherwise not desirable unless a cast iron clad case is shown to exist meriting such order. Such a case has evidently not been made out.

21. For all the reasons aforesaid, this Court is not inclined to interfere with the order dated December 17, 2024 which has been impugned in the present revisional application.

22. **C.O. 154 of 2025** stands dismissed. No costs.

23. Urgent photosat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Om Narayan Rai, J.)