

15.06.2026
Ct. No.6
Sl. No.11
skg

C.O. 312 of 2026

**Gadadhar Das & Ors.
Vs.
Janmenjoy Das & Ors.**

Mr. Prosenjit Mukherjee, Adv.
Mr. Nirmalya Kumar Das, Adv.
Mr. Jahangir Hossain, Adv.

...for the petitioners

1. This revisional application assails an order dated November 24, 2025 passed by the learned Civil Judge (Jr. Div.) Additional Court, Suri, Birbhum in Title suit no. 05 of 2015 whereby the petitioner's application seeking opportunity to adduce fresh oral as well as documentary evidence has been rejected.
2. Title suit no. 05 of 2015 has been instituted by the petitioners praying, inter alia, for a decree for declaration and injunction. The said suit was dismissed by the judgment and decree dated August 14, 2019 passed by the learned Trial Court. The petitioners carried the matter in appeal being Title Appeal no. 09 of 2020 before the learned District Judge at Birbhum.
3. The said appeal has been allowed on contest by remanding the matter to the learned Trial Court with a direction to the learned Trial Court to write the judgment afresh upon re-consideration of the evidence adduced.

4. Upon the matter being thus remanded to the learned Trial Court the petitioners took out an application for adduction of fresh oral and documentary evidence. Such application has been turned down by the learned Trial Court.
5. Feeling aggrieved by such order the petitioners have approached this Court by filing the present revisional application.
6. Mr. Mukherjee, learned Advocate appearing for the petitioners submits that upon the suit being remanded to the learned Trial Court by the order dated March 26, 2025 the petitioners would have a fresh opportunity to adduce oral as well as documentary evidence in support of their plaint case.
7. It is submitted that the learned Trial Court has committed a jurisdictional error in declining the petitioners' prayer for an opportunity to adduce fresh oral as well as documentary evidence. It is further submitted that the learned Trial Court should also have allowed the petitioners to make submissions in respect of their case.
8. Having heard the learned advocate appearing for the petitioners and having considered the material on record, this Court is of the considered opinion that the order impugned calls for no interference.

9. The learned appellate Court while remanding the matter observed that *“Learned Trial should consider the evidence afresh and re-write the judgment afresh”*. The said observation thus requires the learned Trial Court to re-write the judgment afresh upon considering the evidence afresh and not upon considering fresh evidence. Thus there is no scope for adduction of any further evidence by the petitioner.
10. The said aspect has been further clarified by the learned Appellate Court in the ordering portion where the learned appellate Court has directed the learned trial Court to *“write the judgment afresh upon re-consideration of the evidence adduced”* which means evidence already adduced and not evidence to be adduced. In any case, if the judgment was required to be re-written upon consideration of fresh evidence the question of *“reconsideration of the evidence adduced”* would not have arisen.
11. In such view of the matter this Court does not find any illegality or material irregularity in the order impugned. However, the petitioners as well as the opposite parties shall be free to make appropriate submissions in support of their respective cases in order to assist the learned Trial Court to reach appropriate conclusion, either on the next date fixed or on any date that may be fixed by the learned Trial Court, if the Trial Court so feels necessary.

12. With the aforesaid observations C.O. 312 of 2026 stands disposed of. There shall be no order as to costs.
13. Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Om Narayan Rai, J.)