

30.01.2026
Court No. 07
Item No.292
Sandip

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE

C.O. 526 of 2025

Chotelal Rajak
-Versus-

Tarun Kumar Das & Ors.

Mr. Angshuman Chakraborty,
Mr. Shivaji Mitra
.....for the petitioner

Mr. Rajdeep Bhattacharya,
Mr. Sauradeep Dutta,
Mr. Himadree Ghosh,
Mr. Tanay Sen
....for the opposite parties.

- 1) The petitioner is aggrieved by an order dated December 03, 2024 passed by the learned Civil Judge, (Junior Division), 1st Court, Chandernagore, Hooghly in Title Suit No. 55 of 2019.
- 2) By the order impugned, the learned Court rejected an application filed by the defendant for taking off the suit from the peremptory Board and for further posting the suit to an adjourned date.
- 3) The learned Court was of the view that, once the defence against ejectment has been struck off, the defendant was only entitled to cross-examine the plaintiff and his witnesses and address arguments thereby demolishing the plaintiffs' case. The Court held that the defendant could not lead any evidence thereby

travelling beyond the very limited scope of objecting to the plaint case.

4) Thus, the application filed by the defendant was rejected. The Court found that the prayer of the petitioner was to allow the petitioner to lead evidence and take a defence with regard to the plaintiff having an alternative accommodation. The learned Court also closed the right of cross-examination of the plaintiff's witnesses as multiple chances had been given to the petitioner to cross-examine.

5) I do not find any illegality or material irregularity in the order dismissing the application under Section 151 of the Code of Civil Procedure. However, the learned Court ought to have fixed a date, as a last chance, for the defendant to cross-examine the plaintiffs' witnesses. The learned Court was correct to the extent that the defendant could not raise any other defence or plea with regard to the alternate accommodation allegedly available to the plaintiff as a part of the defence case, but the defendant has a right to demolish the plaint case by cross-examination on all points. However, such cross-examination will be restricted to pointing out the falsities, weaknesses and the incorrect statements made in the plaint. In the course of cross-examination, the defendant cannot put questions which are based on his defence. Under such circumstances, the order impugned is modified to the extent that the learned Court will fix two short dates for cross-examination of the P.Ws. by the defendant and thereafter proceed in accordance with law.

- 6) The revisional application is accordingly disposed of.
- 7) There shall be no order as to costs.
- 8) The learned Court is requested to expedite the suit.
- 9) Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Shampa Sarkar, J.)