

CO. 635 of 2026

21.05.26
D/L
SI-16
Ct. 06
(Samar)

Smt. Rina Kundu & Ors.
Vs.
Subhash Kundu

Mr. Debdipto Banerjee,
Mr. P. Kundu,
Ms. Snigdha Saha,
... for the petitioners.
Mr. Aryasha Das,
.... for the opposite party.

1. Affidavit of service filed in Court today is taken on record.
2. This revisional application lays challenge to two orders dated December 15, 2025 and January 16, 2026 passed by the learned Civil Judge (Junior Division), 1st Court at Sealdah in Title Suit No. 273 of 2022.
3. By the order dated December 15, 2025 adduction of evidence on behalf of the plaintiff was closed. By the order dated January 16, 2026, an advocate Commissioner was appointed for taking evidence of the defendant's witness on commission, upon the defendant praying for adjournment.
4. It has been brought to the notice of the Court that subsequently by an order dated May 14, 2026, the order dated January 16, 2026 whereby an advocate Commissioner had been appointed for recording evidence on Commission has been recalled.
5. The petitioners are therefore now aggrieved only

with the order dated December 15, 2025 whereby their evidence has been closed.

6. Learned advocate appearing for the petitioners submits that on a single default on the petitioners' part their right to cross examine the plaintiff's witness has been closed. He submits that the petitioners failed to represent themselves on only one day at the time of call on i.e. December 15, 2025.
7. Learned advocate appearing for the opposite parties submits that the order dated December 15, 2025 has been justly passed and requires no interference.
8. Learned advocate appearing for the opposite parties further submits that the defendants have been remiss in filing their their written statement and that they have filed the same after a long time.
9. Heard the learned advocates appearing for the respective parties and considered the material on record.
10. It is evident from certified copies of the orders placed before this Court by the learned advocate for the petitioners that the petitioners have prayed for time on two occasions i.e. July 25, 2024 and September 15, 2024 and they have defaulted on appearance only on December 15, 2025 when the order impugned was passed.
11. Since cross-examination of witness is an important part of the fair trial procedure and it is

central to the justice delivery system, therefore, this court is inclined to interfere with the order dated December 15, 2025 whereby opportunity of the petitioner to cross-examine the plaintiffs witness has been closed.

12. However, since the suit is of the year 2022 and the petitioner has already prayed for time on two occasions, therefore the petitioner will be given one last opportunity to conclude the cross-examination of the plaintiff's witness.

13. As already indicated hereinabove, by the order dated May 14, 2026, the learned Trial Court has fixed on June 10, 2026 for adduction of evidence on the part of defendants. On the said day, the petitioner shall have the opportunity to conclude the examination of PW 1 that was earlier scheduled on December 15, 2025. It is made clear that if the cross-examination of PW 1 cannot be concluded by the petitioner on June 10, 2026 for any reason attributable to the petitioner, then in such case, the petitioner's right to cross-examine the PWs shall stand closed and the defendants witness shall be examined in terms of the order passed by the learned Trial Court on May 14, 2026.

14. However, if the plaintiff's witness does not turn up on the date fixed then in such case the same procedure will be applicable for next day fixed by the learned Trial Court.

15. CO. 635 of 2026 stands disposed of. There shall be no order as to costs.
16. 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.)