

23.06.2026
(D/L-13)
Ct.-06
(NMD)

**IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE**

C.O. 684 of 2026

Sri Sambhu Nath Singha & Ors.
-Vs-
Smt.Sangita Chandra & Anr.

Mr. Partha Pratim Roy,
Ms. Poulami Chakraborty.
... for the Petitioners
Mr. Surya Prasad Chattopadhyay,
Mr. Arjun Samanta,
Ms. Trishtrya Mancherji.
... for the Opposite Party No.1

1. This revisional application is directed against an order dated January 19, 2026 passed by the learned Civil Judge (Senior Division), Additional Court, Hooghly in Misc. Case No. 127 of 2014 whereby the petitioners' application under Sections 151 and 152 of the Code of Civil Procedure, 1908 has been rejected.
2. The petitioners had instituted Title Suit No. 152 of 2012 for specific performance of contract. The said suit was decreed on November 16, 2013.
3. The opposite parties filed an application under Order IX Rule 13 of the Code seeking setting aside of the *ex parte* decree. Since the said application seeking setting

aside of the *ex parte* decree had been filed belatedly, the same was accompanied with an application under Section 5 of the Limitation Act, 1963 for condonation of delay. The said application was allowed and the application for setting aside *ex parte* decree is presently being continued as Misc. Case No. 127 of 2014.

4. In the said Misc. Case, the petitioners were examined in full and thereafter cross-examined in part on August 5, 2025. On September 04, 2025 an application was filed by the petitioners asserting that the petitioners' statements in cross-examination have been incorrectly recorded. The petitioner contended that it has been the petitioners' case in the application for setting aside *ex parte* decree that the opposite parties had filed the said application under Order IX Rule 13 of the Code in collusion with the promoter of the property in suit.
5. It was contended that despite such being the case and despite it being stated during cross-examination that the application had been filed by the opposite party in collusion with the promoter. To be precise, it was contended that bengali vernacular

expression “Jogajog” which had been used by the witness during cross-examination was not recorded in the evidence-sheet.

6. The petitioners accordingly made an application under Sections 151 and 152 of the Code before the learned Trial Court seeking correction of the recording of the petitioners’ witness statements during cross-examination. Such application was contested by the opposite parties and ultimately by the order impugned, the learned Trial Court has rejected the petitioners’ application. Feeling aggrieved thereby, the petitioners have approached this Court by filing the present revisional application.

7. Mr. Roy, learned Advocate appearing for the petitioners submits that it will be evident from the petitioners’ objection to the opposite parties’ application under Order IX Rule 13 that it is the petitioners’ case that the opposite parties had filed such application in collusion with the promoter. It is submitted that such being the situation, it could not have been so that during cross-examination, the petitioners would not have used the word “Jogajog” i.e. (in collusion with) while

answering the question put to him in cross-examination.

8. It is further submitted that upon obtaining the certified copy of the recordings of the evidence the petitioners immediately approached the learned Trial Court by filing appropriate application under Sections 151 and 152 of the Code which has been wrongly rejected by the learned Trial Court. Mr. Roy further submits that the learned Trial Court has been unjustly swayed by the fact that the opposite parties' application for condonation of delay under Section 5 of the Limitation Act, 1963 was allowed by the learned Trial Court and such order remained undisturbed before this Court.
9. Mr. Chattopadhyay, learned Advocate appearing for the opposite parties submits that the learned Trial Court has rightly rejected the petitioners' application. It is submitted that the recordings of the petitioner's cross-examination contain no error and only that which was actually said by the witness during cross-examination has been recorded.
10. Heard the learned Advocates appearing for the respective parties and considered the

material on record. There is a presumption of correctness of recordings in order and proceedings in Court. While it is true that the Court has power to correct any error that might have crept in its records by use of inherent power recognized under Section 151 of the Code or correct arithmetical, clerical or any such other error or omission by use of power under Section 152 of the Code yet the present case does not appear to be of that nature. The learned Trial Court has in the order impugned observed that the evidence-sheet of the petitioners evinces that the petitioners' witness put his signature with date on the same date on which such evidence was recorded and that the evidence was recorded in open Court on August 5, 2025.

11. It is also noted that it is not the petitioners' case in the application under Sections 151 and 152 of the Code that the petitioners or their witness were under any kind of confusion or that the petitioners or the witness could not understand what was recorded in the evidence-sheet by reason whereof the petitioners' witness put his signature on the evidence-sheet. If the petitioners' had put his signature on the

evidence-sheet without raising objection and it is not the case of the petitioners that the evidence-sheet could not be understood by the petitioners. This Court does not find any reason to reach a different conclusion than the one reached by the learned Trial Court.

12. Insofar as the learned Trial Court's reasoning that as the application under Section 5 of the Limitation Act that had been filed along with the Misc. Case had been allowed by the learned Trial Court and that such order had been affirmed by this Court is concerned, the same was unnecessary for the purpose of reaching the conclusion that the Trial Court did in the order impugned. In any case, the order allowing the opposite parties' application for condonation of delay would not have any bearing on the main substance of the application under the Order IX Rule 13 of the Code and such application would have to be decided on its own merit.

13. The order dated January 19, 2026 is not interfered with since the ultimate conclusion being a finding of fact does not call for any interference.

14. C.O. 684 of 2026 stands disposed of with the above observations. There shall be no order as to costs.
15. It is clarified that the observations made hereinabove are only for the purpose of deciding the challenge to the order dated January 19, 2026 posed by way of the present revisional application.
16. The learned Trial Court is requested to dispose of the Misc. Case No. 127 of 2014 as expeditiously as the business of the learned Trial Court would permit without granting any unnecessary adjournment to either of the parties.
17. 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.)