

06.03.2026
Item No.23 (DL)
Court No.06
AJ.

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

C.O. 721 of 2026

**Sri Prosenjit Roy @ Singha Roy & Ors.
-Vs-
Subhashish Singha Roy & Ors.**

Mr. Saumyen Datta,
Mr. Tapas Singha Roy.
.....for the petitioners.

1. This revisional application is directed against an order dated July 03, 2025 passed by the learned Additional District & Sessions Judge, Fast Track, 2nd Court, Jangipur in Misc. Appeal No. 21 of 2024 whereby the petitioners' application praying for dismissal of the said appeal has been rejected.

2. The petitioners prayed for dismissal of the said appeal on the ground that the same had been admitted without serving notice on the caveator.

3. Having heard the learned Advocate appearing for the petitioners, this Court is unable to find any reason to interfere with the order impugned. The order impugned records that on the date the appeal had been filed there was no recording of caveat on the memorandum of appeal despite the caveat having been lodged however no adverse order was passed at any point of time in absence of

the petitioners except admitting the appeal. The learned appellate Court has rightly held that non service of notice prior to admission is an irregularity not so grave as to warrant dismissal of the appeal itself.

4. A caveat does not necessarily bar the appellate Court from admitting the appeal but an interim order in the appeal that may adversely affect the caveator cannot be passed without first serving notice on the caveator in order to afford the caveator an opportunity to contest such proceeding. In the case at hand no such order has been passed. In such view of the matter there was no reason for the appellate Court to dismiss the appeal as prayed for by the petitioners and the appellate Court has rightly not done so. The appellate Court has fixed the appeal for hearing when the petitioners can take all points available them. The order impugned is therefore not interfered with.

5. However, since the miscellaneous appeal has been pending since 2024, it is expected that the learned Appellate Court shall endeavour to dispose of the same as expeditiously as the business of the learned Court would permit.

4. With the above observations C.O. 721 of 2026 stands disposed of. No costs.

5. 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.)