

N.22Sl
151/CL

CO 819 of 2026

Md. Manauwar Khan & Ors.
v.
Salma Khatoon & Ors.

11.03.26
Sl-24
Ct-06
(S.R.)

Mr. Harsh Tiwari
Mr. Anwar Hossain
Mr. Bhupendra Gupta ... for the petitioners.

1. This revisional application is directed against an order dated December 17, 2025 passed by the learned Civil Judge (Senior Division), 2nd Court at Alipore thereby vacating the order dated December 1, 2022 whereby Title Suit No.358 of 2018 had been stayed till disposal of the Title Suit No.357 of 2012 (renumbered as Title Suit No.13 of 2016).
2. Mr. Tiwari, learned advocate appearing for the petitioners submits that the order impugned has not taken into consideration the fact although Title Suit No. 13 of 2016 (upon being renumbered) had been dismissed for default, but an application for restoration thereof has been filed under Order 9 Rule 9 of the Code and the same is pending consideration before the learned Trial Court. It is submitted that, in any case, upon the said suit being restored, the subject suit i.e. Title Suit No.358 of 2018 would have to be stayed following the same legal principle in terms whereof it had been stayed earlier.

3. Section 10 of the Code of Civil Procedure aims at avoiding parallel trials on the same issue by two Courts of concurrent jurisdiction in order to prevent conflicting findings.
4. It is not in dispute that the earlier Title Suit being Title Suit No. 13 of 2016 (by reasons of pendency whereof Title Suit No.358 of 2018 had been stayed) has been dismissed for default and, as such, presently the same cannot be said to be pending. The situation of two parallel trials is therefore not obtaining presently.
5. In case, Title Suit No. 13 of 2016 is restored, it will be open to the petitioners to make the same prayer before the learned Trial Court taking resort to the provisions of Section 10 of the Code.
6. For the present there is no illegality and/or material irregularity in the order passed by the learned Trial Court and therefore there is no reason for this Court to interfere with the order impugned.
7. CO 819 of 2026 stands disposed of with the above observations. No Costs.
8. Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible.

(Om Narayan Rai, J.)