

23.06.2026
Item No.17 (DL)
Court No.06
AJ.

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

C.O. 884 of 2026

**Dulal Chandra Paul
-Vs-
Hindustan Cables Limited**

Mr. Satyam Mukherjee.
Mr. Chiranjib Sinha.
.....for the petitioner.

Mrs. Shohini Chakraborty,
Mr. Amit Ghosal.
.....for the opposite party.

1. Affidavit of service filed in Court today is taken on record.

2. At the outset, Mr. Mukherjee, learned Advocate appearing for the petitioner submits that although the revisional application has been filed assailing two orders, i.e. order dated August 04, 2025 and November 15, 2025 yet, the petitioner is not pressing the challenge in so far as the order dated August 04, 2025 is concerned.

3. This revisional application is directed against an order dated November 15, 2025 passed by the learned Civil Judge (Senior Division), 1st Court at Asansol in Title Execution Case No. 01 of 2016 arising out of Title Suit No. 144 of 2000 whereby the learned Executing Court had directed the decree-holder to appear before the Court for recording satisfactory execution of delivery of possession and to take proper steps for realization of the decretal amount since the writ issued for realization of the decretal sum was not proper.

4. Title Suit No. 144 of 2000 had been instituted by the opposite party for recovery of possession as well as for recovery of money. The said suit was decreed ex parte on April 24, 2013. The said decree has been put into execution by filing Title Execution Case No. 01 of 2016. In the said execution case, a writ for possession of a property which did not form part of the schedule of the suit was issued. Upon the writ returning unexecuted, the learned Executing Court passed the order impugned.

5. Feeling aggrieved thereby the petitioner has approached this Court by way of the present revisional application.

6. Mr. Mukherjee, learned Advocate appearing for the petitioner submits that a writ of possession could not have been issued in respect of a property that did not form subject matter of the suit, by mere incorporation thereof in the application for execution. It is submitted that if at all, the Court was required to assume jurisdiction in respect thereof, the same could have been done only upon passing appropriate order under Order 21 Rule 41 of the Code of Civil Procedure, 1908.

7. Mrs. Chakraborty, learned Advocate appearing for the opposite party submits that the learned Trial Court has understood the defect in the writ of possession and has therefore clearly observed in the order impugned that “*DHR will take*

proper steps for realization of decretal money as the writ which was sent for realization of decretal money was not proper”.

8. It is submitted that if the learned Executing Court had felt that the writ of possession of the suit property had been properly issued, such observation would not have been made. It is next submitted that in any case, such defect has been cured and the opposite party has already filed an application under Order 21 Rule 41 of the Code.

9. Heard the learned Advocates appearing for the respective parties and considered the material-on-record.

10. It is evident that the learned Trial Court has observed that the decree-holders would take proper steps for realizing the decretal sum inasmuch as the writ that had been issued earlier was not proper. The opposite party has, as submitted by Mrs. Chakraborty, already filed an application under Order 21 Rule 41 of the Code.

11. In such view of the matter the petitioner's immediate grievance as regards issuance of a writ of possession in respect of a property that did not form subject matter of the suit and in respect whereof no order of attachment had been passed stands redressed.

12. Since an application under Order 21 Rule 41 of the Code has been filed, the learned Executing Court would decide such application and

pass appropriate orders in accordance with law. Needless to mention that the next course of action would be guided by the order that would be passed by the learned Executing Court on such application under Order 21 Rule 41 of the Code.

13. In view of the aforesaid observations and the developments, this revisional application is being disposed of by observing that the writ of possession issued earlier in respect of the property which did not form subject matter of the suit would no longer be executed. However, the effect of the execution proceedings, in respect of the said property, as observed earlier would now be dependant on the result of the application under Order 21 rule 41 of the Code.

14. The learned Executing Court is requested to dispose of the Title Execution Case No. 01 of 2016 as expeditiously as the business of the learned Trial Court would permit without granting any unnecessary adjournment to either of the parties.

15. C.O. 884 of 2026 stands disposed of. There shall be no order as to costs.

15. 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.)