

16.4.2026
Ct. no. 6
D/L.5
Samarpita

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
(Appellate Side)

C.O. 1002 of 2026

Bharam Chandra Gupta(Shaw) @ Moloa Shaw
Vs.
Kanai Das&Ors.

Mr. Taraknath Halder,
Ms. Sunanda Samanta

... for the Petitioner/plaintiff

Mr. Kushal Chatterjee,
Mr. Sibashis Choudhury

... for the opposite parties

1. This revisional application lays challenge to an order dated February 4, 2026, passed by the learned Civil Judge (Junior Division), 1st Court (In-Charge) at Sealdah, in Misc. case No. 07 of 2026, thereby, rejecting the petitioner's prayer for interim stay of all further proceedings of Title Execution case No. 39 of 2024 and fixing the stay application for further hearing on a later date.
2. The opposite party had instituted Title Suit No. 960 of 2018 before the learned Civil Judge (Junior Division) 1st Court at Sealdah, praying *inter alia* for a decree of eviction of one, Ram Ajor Shaw. The plaint case was that one Munilal Shaw who was the tenant under the opposite parties had breathed his last on May 17, 2009 and that the said Ram

Ajor Shaw being one of his heirs and legal representativesordinarily resided with him, however, upon expiry of the statutory period of five years after the death of the said tenant Munilal Shaw(since deceased),the said Ram Ajor Shaw had no further right to reside at the suit premises as he had become a trespasser.

3. The said suit was decreed on August 22, 2024. Such decree has been put into execution by initiating Title Execution Case No. 39 of 2024.
4. In the said suit, the petitioner has filed an application under Order 21 Rule 99, read with Rule 97,100,101 and Section 47 of the Code of Civil Procedure, 1908, thereby asserting that the petitioner has independent right, title and possession in respect of the suit property, other than the judgement-debtor, Ram Ajor Shaw. The same has been registered as Misc Case No. 07 of 2026.
5. It may be mentioned that initially, Ejectment Suit No. 14 of 2009 had been filed by the opposite parties for eviction of Munilal Shaw (since deceased), but the said suit abatedupon his death.An application under Order 22 Rule 9 of the Code was thereafter

filed seeking substitution of the heirs and legal representatives of the said Munilal Shaw (since deceased) upon setting aside the abatement.

6. However, the said suit was subsequently withdrawn and afresh suit was filed nine (9) years thereafter.
7. Mr. Taraknath Halder, learned advocate appearing for the petitioner submits that, the learned Executing Court has committed a serious error in rejecting the petitioner's application for stay of all further proceedings of Title Execution case No. 39 of 2024, till disposal of the said Misc. Case No. 7 of 2026. It is submitted that in case the decree is executed prior to the decision in the aforesaid Misc. Case, the petitioner would be irreparably prejudice.
8. He has referred to the backdrop of the present case and stated that the petitioner was intentionally left out of the suit and the opposite party has sought to steal a march over the petitioner by purposely not impleading the petitioner despite knowing that the petitioner was in occupation of the suit property.

9. Mr. Kushal Chatterjee, learned advocate appearing for the opposite party submits that, the learned Executing Court was perfectly justified in declining the prayer for stay of the execution case. He submits that, the judgement of the learned Trial Court would itself clearly show that the petitioner was never in possession of the suit property.
10. Heard learned Advocates for the respective parties and considered the material on record.
11. The order impugned is one whereby the petitioner's prayer for interim stay of all further proceedings of the execution case has been rejected and the petitioner's application for stay has been fixed for hearing on a future date. The petitioner has been directed to serve a copy of the stay application on the opposite parties. The learned Trial Court does not appear to have committed any error, far less any jurisdictional error in declining interim stay on the execution proceedings without directing service of the stay application upon the opposite parties. The learned Executing Court has rightly opined that mere filing of the Misc Case may not

entitle the petitioner to an order of stay of execution proceedings.

12. In such view of the matter this Court is not inclined to interfere with the order impugned. The learned Trial Court is requested to dispose of the petitioner's application for stay of execution upon hearing the respective parties, in accordance with law as expeditiously as possible and preferably on the next date fixed.
13. The learned Executing Court is further requested to dispose of Misc. Case No. 07 of 2026 as expeditiously as possible and preferably within a period of one (1) month from the next date fixed without granting any unnecessary adjournment either of the parties.
14. **C.O. 1002 of 2026** stands dismissed accordingly. No costs.
15. Urgent photosat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Om Narayan Rai, J.)