

ADSL-02
Ct No.16
05.02.2026
TN

SAT 85 of 2025

Sashi Prova Agarwal
Vs.
Debasish Paul and others

Mr. Sunny Nandy,
Mr. Subha Pathak,
Ms. Yamini Tiwari

.....for the appellant

Mr. Sounak Bhattacharya,
Mr. Anirban Saha Roy,
Mr. Abhirup Halder

.....for the respondents

1. By an order dated February 02, 2026, we had dismissed the appeal under Order XLI Rule 11 of the Code of Civil Procedure and consequentially dismissed the connected application for stay. However, on the basis of the prayer of the appellant that the appellant would vacate the suit premises within a month thereafter, we had permitted the appellant to file an undertaking to the effect that the appellant will hand over vacant, peaceful and unencumbered possession of the decretal property in favour of the respondents on or before March 02, 2026.
2. However, when the purported affidavit of undertaking is filed in Court today, learned counsel for the

respondents contends that the same is not in consonance with the leave granted by this Court.

3. We are surprised to see that not only is the affidavit of undertaking filed today not affirmed by the appellant herself but by her constituted attorney who makes the statements in the affidavit in the first person, we also find that the appellant, in the said affidavit, has grossly violated the leave granted to the appellant by stating in paragraph no.5 thereof that she has informed her advocate that her grandson is undertaking class examinations but in addition to that, the appellant's personal health has deteriorated to a great extent and she had undergone an open-heart surgery on October 24, 2025 and has been advised complete bed rest for 3 months and observation for 6 to 7 months.
4. Not only that, in the next sub-paragraph of paragraph no.5, it has been blatantly stated that the appellant is not in a condition to vacate the premises immediately and undertakes to hand over vacant, unencumbered possession of the decretal property in favour of the respondents within a period of 3 months from date.
5. Thus, since such undertaking is squarely *de hors* the leave granted by us, we refuse to accept such

undertaking and reject the same, keeping on record the said undertaking merely for the records.

6. In such view of the matter, no further time is granted to the appellant to leave the suit premises. The respondents are granted liberty to proceed with the connected execution case immediately and it is expected that the said execution case shall reach its logical conclusion as expeditiously as the business of the executing court permits.

(Sabyasachi Bhattacharyya, J.)

(Biswaroop Chowdhury, J.)