

CO. 1136 of 2026

12.05.26
D/L
Sl-17
Ct. 06
(Samar)

Smt. Ranu alias Anu Hazra (Seal)
Vs.
Rishra Mohit Amiya Memorial Vidyapith

Mr. Debanis Sur,
Mr. Dilip Kumar Das,
Mr. Mrinmoy Chatterjee,
... for the petitioner.

1. This revisional application is directed against an order dated November 17, 2025 passed by the learned Civil Judge (Junior Division), 3rd Court, Serampore, Hooghly in Misc Case No. 61 of 2025 whereby the petitioner's application under Section 47 of the Code of Civil Procedure, 1908 has been rejected.
2. The opposite party had instituted Title Suit No. 55 of 2002 before the learned Civil Judge (Junior Division), 3rd Court at Serampore, for recovery of possession of the suit property upon eviction of the petitioner therefrom. The said suit was decreed on September 7, 2002. Such decree was carried in appeal being Title Appeal No. 233 of 2002 before the learned Additional District and Sessions Judge, Serampore, Fast, 1st Track Court which was also dismissed on March 21, 2006.
3. In the mean time, the opposite party put the decree in execution by filing Title Execution Case No. 15 of 2003 in the said suit, the petitioner initially filed an

application under Section 47 of the Code which was registered as Misc. Judicial Case No. 17 of 2006. The said Misc. Case was rejected on context on April 30, 2008.

4. After rejection of the said Misc. Case, the petitioner filed another application under Section 47 of the Code which was registered as Misc. Case No. 61 of 2025. In the said Misc. Case, the petitioner sought to raise questions on the discharge and satisfaction of the decree on the specious plea of non-joinder and mis-joinder of parties. The learned Executing Court has dismissed the said Misc. Case by observing that the said grounds were very well available to the petitioner while the petitioner had filed the first/initial Misc. Case.
5. Feeling aggrieved by the said order dated November 17, 2025, the petitioner has approached this Court by filing the present revisional application.
6. Learned advocate appearing for the petitioner submits that the learned Trial Court has committed a serious error in rejecting the petitioner's Misc. Case without appreciating the real crux of the proceedings.
7. Having heard the learned advocate appearing for the petitioner and having considered material on record, this court is of the considered opinion that the order impugned herein does not call for any interference. It is now settled law that a point which

could have been raised in the suit but has not been raised, would not be permitted to be raised anew or afresh by way of an application under Section 47 of the Code. The learned Executing Court has quite rightly referred to the observations of the Hon'ble Supreme Court in the case of ***Rahul S. Shah vs. Jinendra Kumar Gandhi & Ors.*** reported at ***(2021) 6 SCC 418*** in such context.

8. In such view of the matter, the order passed by the learned Trial Court does not suffer from any illegality or material irregularity, far less any jurisdictional error and there is no scope for any interference at all.
9. CO. 1136 of 2026 stands dismissed. There shall be no order as to costs.
10. 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.)