

CO. 1568 of 2026

16.06.26
D/L
Sl-31
Ct. 06
(Samar)

Sampa Adhikari & Anr.
Vs.
Dilip Kumar Das

Mr. Anirban Roy,
Ms. Nayonika Chakraborty,
... for the petitioners.
Mr. Anirban Das,
.... for the opposite parties.

1. Affidavit of service filed on Court today is taken on record.
2. This revisional application has been filed seeking expeditious disposal of Title Execution Case No. 34 of 2023 pending before the learned Civil Judge (Senior Division), 1st Court at Barasat, North 24-Parganas.
3. The petitioners had instituted Title Suit No. 24 of 2019 *inter alia* for eviction of the opposite party and for mesne profits. The said suit was decreed on June 27, 2023. The said decree was carried in Title Appeal No. 75 of 2023 before the learned District Judge at Barasat. The said appeal was ultimately dismissed on September 20, 2024. The Appellate Decree is pending challenge in Second Appeal being SAT 151 of 2025 before this Court. However, since the second appeal is yet to be admitted therefore there is no order of stay granted as yet in the said second appeal.

4. The petitioners have put the decree in execution by initiating Title Execution Case no. 34 of 2023. The said Title Execution Case is being adjourned although there is no order of stay thereof. Feeling aggrieved by the stalling of the Execution Case, the petitioner has approached this Court by way of present revisional application.
5. Mr. Roy, learned advocate appearing for the petitioners submits that the petitioner is being deprived of the fruits of the decree although there is no order of stay on the execution of decree and the learned Executing Court has been going on adjourning the execution proceedings.
6. Mr. Das, learned advocate appearing for the opposite party submits that the appellate decree which affirmed the decree of eviction has been challenged by the opposite parties in second appeal before this Court. It is submitted that since the said second appeal is pending, the learned Executing Court is justified in adjourning the execution proceedings.
7. Having heard the learned advocates appearing for the respective parties and having considered material on record, this Court is of the view that the learned Executing Court ought not to have adjourned the execution proceedings without there being any order of stay from the appellate forum or

without there being any other valid reason to stay the Execution Case.

8. Since there is no order of stay in operation at all, therefore there is no reason for the learned Executing Court to adjourn the execution proceedings. Accordingly, this revisional application is disposed of by requesting the Executing Court to proceed with the Execution Case and conclude the same expeditiously in accordance with law, keeping in mind the mandate of the Hon'ble Supreme Court in the case of ***Periyammal (dead) through Legal Representatives & Ors. vs. V. Rajamani & Anr.*** reported in ***(2025) 9 SCC 568***.
9. Needless to mention that the Execution proceedings would certainly be governed by any order of stay or otherwise that may be passed in the pending second appeal, however the execution case cannot be stalled in anticipation of any order or merely because of a pendency of the second appeal before this Court.
10. With the above observations, CO. 1568 of 2026 stands disposed of. There shall be no order as to costs.
11. 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.)

