

31.03.2026
Item no. 19
Court no. 30
g.b.
266012

CO 2116 of 2022
With
CAN 1 of 2025

Sri Gobinda Laha
Vs.
Sri Sudip Ghosh & Ors.

Mr. Surya Prasad Chattopadhyay
Mr. Arjun Samanta
Mr. Ankit Chatterjee
..... For the Petitioner

1. Affidavit of service filed be kept with the record.
2. CAN 1 of 2025 has been filed praying for extension of interim order.
3. The civil revision is taken up for hearing along with CAN 1 of 2025.
4. The civil revision has been preferred challenging an order no. 58 dated 15.03.2022 passed by the Learned Civil Judge, Junior Division, 1st Court, Krishnanagar at Nadia in Title Suit No. 64 of 2018.
5. Vide the impugned order, the learned Trial Court has held as follows:

“On perusal of the case record this court find that this has passed the final order in four preemption case in favour of present defendant on 18.02.2022 and vide these final order the defendant became the owner in the suit property. The final order has been passed by this court on 18.02.2022 and

directed the O. P. to vacate the suit property within 90 days from the date of final order. The court has also directed the A.D.S.R., Sadar, Krishnagar for the correction of record subject to the outcome of any appeal. The appeal period is till today not over and if the instant petition is allowed than the multiplicity of the proceeding will be arise.

Considering all this court is on view that the instant petition should be rejected.

Hence, it is ordered that the petition filed by the defendant under Section 151 of the CPC dated 07.03.2022 is rejected on contest.”

6. It appears from the impugned order that it is the same court which has rejected the application under Section 151 of the CPC has also passed the orders in the four preemption cases.
7. Learned counsel appearing for the defendant/petitioner herein submits that admittedly the landlord/plaintiff acquired the title in the suit property by way of sale in the month of September, 2017. It is further submitted that in spite of prima facie violation of the provisions of Section 6(2) of the West Bengal Premises Tenancy Act, 1997, the trial court without taking into consideration that the suit could not have been instituted within a period of one year, when the same was done in February, 2018 that is within

four months from the date of transfer passed the impugned order.

8. It is further submitted by the defendant/petitioner that presently appeals have been preferred against the orders in the preemption case. **It appears that the defendant/petitioner has challenged the maintainability of the suit by way of an application under Section 151, CPC.**
9. It is thus clear that the impugned order has been passed, without taking into consideration the provision relied upon by the petitioner.
10. Considering that there is a specific provision under the Code of Civil Procedure for such prayer, the revisional application is disposed of, on setting aside the impugned order, with liberty granted to the petitioner to file an appropriate application before the learned trial court, within 30 days from the date of this order.
11. The learned trial court while deciding the said application filed by the petitioner herein shall take into **consideration Section 6(2) of the West Bengal Premises Tenancy Act, 1997** while disposing of the said application, in accordance with law, expeditiously.
12. It is made clear that this Court has not gone into the merit of this case.
13. CO 2116 of 2022 stands **disposed of.**

14. All connected applications, if any, stand disposed of.
15. Interim order, if any, stands vacated.
16. Urgent photostat certified copy of this order, if applied for, be supplied to the parties on urgent basis after completion of all necessary formalitis.

(Shampa Dutt (Paul), J.)