

Form No. J(2)

In the High Court at Calcutta
Civil Appellate Jurisdiction
Appellate Side

Present: The Hon'ble Justice Sabyasachi Bhattacharyya
And
The Hon'ble Justice Biswaroop Chowdhury

FA 359 of 2025
IA No: CAN 1 of 2025

Kaushar Hossain and another
Vs.
Smt. Tulu Paul and another

For the appellants	:	Mr. Kushal Chatterjee, Mr. Debrup Choudhury
For the respondents	:	Mr. Rachit Lakhmani, Mr. Piyush Kumar, Mr. Deokant Sharma
Heard on	:	13.05.2026
Judgment on	:	13.05.2026

Sabyasachi Bhattacharyya, J.:-

1. Since the conspectus of the appeal is very short, we take up the appeal for hearing along with the application.
2. By the impugned judgment and decree, the learned Trial Judge has dismissed the suit filed by the plaintiffs/appellants for specific performance of an agreement for sale, despite the said agreement having been exhibited along with other documents.

3. Learned counsel for the appellants rightly points out that the learned Trial Judge dismissed the suit primarily on the basis that the plaintiffs have failed to prove the title of the defendants.
4. However, upon hearing learned counsel for the parties, we find that the said consideration is entirely irrelevant and besides the point in adjudicating a suit for specific performance of contract. In such a suit, the only ambit of consideration of the Court is whether there is a validly executed agreement for sale which is otherwise enforceable in law and the other parameters as stipulated in the Specific Relief Act, 1963 (as amended till date).
5. However, the question of title of the proposed vendors need not be proved by the plaintiffs in such a suit at all. Hence, the impugned judgment is bad in law on such count.
6. Since the learned Trial Judge has not entered into the merits of the suit otherwise, it would be premature for us to decide on the same at this stage, since it would denude both parties of a forum of appeal.
7. Accordingly, FA 359 of 2025 is allowed on contest, thereby setting aside the impugned judgment and decree dated June 24, 2025 passed by the learned Civil Judge (Senior Division), First Court at Howrah in Title Suit No. 146 of 2015 and remanding the suit to the Trial Court for being heard afresh in accordance with law. The learned Trial Judge shall decide the suit on merits by passing a reasoned order without insisting upon proof of title of the defendants in any manner whatsoever.
8. CAN 1 of 2025 is also disposed of accordingly.

9. There will be no order as to costs.
10. Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)

I agree.

(Biswaroop Chowdhury, J.)