IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE

Present:
The Hon'ble Justice Md. Shabbar Rashidi

CO 2852 of 2025

Shrimati Archana Mitra

Vs.

Shrimati Ratna Das And Ors.

For the petitioner	:	Mr. Rabindra Nath Mahato, Adv. Mr. A. S. Ray, Adv.
For the Opposite Party No. 1:		Mr. Rittick Chowdhury, Adv. Mr. Soumyajyoti Nandy, Adv. Mr. Deepankar Thakur, Adv.
Heard on	:	08.10.2026
Judgment on	:	08.10.2026
Uploaded on	:	09.10.2026

MD. SHABBAR RASHIDI, J.:

1. Affidavit of service filed in Court be taken on record.

2. The instant revisional application has been filed by the plaintiff in Title Suit No. 153 of 2022.

3. The plaintiff filed the aforesaid suit challenging two deeds of gift executed in favour of the defendant no. 1 by the father of defendant no. 1 as well as the plaintiff. By filing the Title Suit No.

153 of 2022, the plaintiff/petitioner prayed for a declaration of 1/4th share in the suit property which she acquired by inheritance on the death of her father. The plaintiff also prayed for declaration of the deeds executed in favour of the plaintiff as null and void. It was contended on behalf of the plaintiff in the plaint that the aforesaid deeds were obtained by defendant no. 1 by practicing fraud upon her father.

4. After filing of the Title Suit No. 153 of 2022, the petitioner/plaintiff also filed an application under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure praying for a temporary injunction restraining the principal defendant no. 1 from causing any disturbance in peaceful joint possession of the plaintiff and dispossessing the plaintiff from her legitimate share of the suit property by changing nature of the suit property. The plaintiff also prayed for an order restraining the defendant no. 1/opposite party no. 1 from creating any third-party interest over the suit property.

5. Such application was heard by the learned Trial Court in presence of both the parties and by an Order no. 14 dated March 19, 2024, the application filed by the petitioner/plaintiff under Order XXXIX Rules 1 and 2 of the Civil Procedure Code was rejected. While rejecting the prayer of the petitioner/plaintiff, the learned trial Court also held that the plaintiff had failed to prove a

prima facie case and the defendant no. 1 has a better title and possession in respect of the suit properties.

6. Being aggrieved with such order of rejection of her application under Order XXXIX Rules 1 and 2 of the Civil Procedure Code, the plaintiff preferred a Misc. Appeal being Misc. Appeal No. 48 of 2024. The said Misc. Appeal was dismissed by the impugned judgment and order. The learned First Appellate Court also held that it did not find any illegality in the impugned order, which was passed based on well-reasoned analysis. It was noted that the plaintiff failed to establish a prima facie case, as the defendant appears to have a stronger title and possession over the suit property and the balance of convenience and inconvenience was poised in favour of the defendant no. 1.

7. At the time of hearing, learned advocate for the petitioner/plaintiff submits that she has challenged the deeds on the basis of which defendant no. 1 is claiming exclusive title over the property owned by her father. Therefore, at least an order may be passed restraining the defendant no. 1/opposite party no. 1 from creating any third party interest over the suit property.

8. Having heard the submission made on behalf of both the parties and on perusal of the material on record, it appears that the petitioner/plaintiff claimed a share in the property originally owned

by her father on the basis of inheritance. However, the defendant no. 1 has claimed the exclusive title in the suit property on the basis of two several deeds of gift executed by the father of the defendant no. 1 and the plaintiff. There may be claims and counter claims that the parties are in joint possession of the property, the claim of defendant no. 1 based on the deeds of gift seeks to be in a better position than that of the plaintiff. Although, the deeds of gift have been challenged by the plaintiff on the ground that the aforesaid deeds were obtained by defendant no. 1 from her father by practicing fraud upon him, such fact is to be decided at the trial of the title suit. An owner of a property cannot be restrained from exercising the ownership over the suit properties by limiting it or restraining him from alienating the property owned by such owner. The petitioner/plaintiff has the benefit of Section 52 of the Transfer of Property Act, 1882, if the plaintiff succeeds in the title suit.

9. In such circumstances, I do not find anything to interfere with the impugned judgment and order. The same is hereby affirmed.

10. The instant revisional application being **CO 2852 of 2025** is, accordingly, disposed of.

11. Urgent certified copy of this judgment, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Md. Shabbar Rashidi, J.)

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