

18.3.2026
Item no. 30
Court no. 30
g.b.

CO 3274 of 2024

**Makhan Chandra Roy & Ors.
Vs.
Mala Chakraborty**

Mr. Gour Baran Sau
..... For the Petitioners

1. The revisional application has been preferred challenging order no. 56 dated 01.08.2024 passed by the learned Civil Judge (Senior Division), 1st Court, Malda in Partition Suit No. 201 of 2015.
2. Vide the impugned order dated 01.08.2024 the learned trial court considering the prayer of the plaintiff/opposite party herein has passed an order stating as follows:

“Heard both sides.

It is true that under the scheme provided by order 18 rule 3 a party has no right to lead evidence in rebuttal where the onus to prove a particular issue lay on him. But the case in hand it appears that one deed has been challenged by the plaintiff. Defendant to prove the deed adduced one of the attesting witness namely Subhash Chandra Mukherjee. Now by way of rebuttal witness plaintiffs willing to adduce another attesting witness of that deed.

But the evidence from both the sides has already been closed and plaintiff did not file any witness list and

waited till the closure of the evidence of the defendant but the factum of the case shows that defendant were at liberty to bring any of the attesting witnesses on the dock.

Admittedly Barun Chakraborty is one of the attesting witnesses. So, the waiting of the plaintiff cannot be said to be belated.

For the proper adjudication of the suit the prayer of the plaintiff is allowed but with cost of Rs 1000/- for the delay.

To 17.08.2024 for evidence, payment of cost in the meantime.

Inform both sides.

Office to comply.

Dictated & Corrected by me,

Civil Judge (Sr. Divn.), 1st Court Malda.

Civil Judge (Sr. Divn.), 1st

Court, Malda.”

On perusal of the reasons as provided in the impugned order, this Court finds that there is no irregularity in the order passed by the learned trial Court and calls for no interference.

Civil revision stands dismissed.

Accordingly, **CO 3274 of 2024** is disposed of.

(Shampa Dutt (Paul), J.)