

18.05.2026
(D/L-10 & 15)
Ct.-06
(NMD)

**IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE**

**C.O. 4106 of 2025
With
C.O. 1475 2026**

Sri Ujjal Roy
-Vs-
Smt. Mithu Samanta & Ors.

Mr. Prantick Ghosh,
Mr. Prasad Bhattacharya,
Ms. Poulami Saha
... for the Petitioner
Mr. Sounak Bhattacharya,
Mr. Anirban Saha Roy
...for the Opposite Parties

1. Since C.O. 4106 of 2025 and C.O. 1475 of 2026 assail two interlocutory orders passed in Title Suit No. 1027 of 2023 pending before the learned 10th Bench, City Civil Court, Calcutta, therefore the same are being taken up together and disposed of by a common order.
2. C.O. 4106 of 2025 is directed against an order dated September 11, 2025 passed by the learned Judge, Bench-X in Title Suit No. 1027 of 2023 whereby two applications filed by the petitioner - one for taking the suit off the peremptory hearing board and another praying for permission to repair

the dwelling house as well as the removal of blockage of the drainage system were dismissed.

3. C.O. 1475 of 2026 assails an order dated April 16, 2026 passed by the learned Judge, Bench-X in Title Suit No. 1027 of 2023 whereby the petitioner's prayer for adjournment on the ground of pendency of C.O. 4106 of 2025 was rejected and the petitioner's evidence has been closed.
4. Title Suit No. 1027 of 2023 has been filed by the opposite party seeking *inter alia* the eviction of the petitioner. In the said suit, the petitioner filed an application under Section 151 of the Code praying for permission to repair the tenanted premises. Such application had been filed at a time when the defendant's witness was to be examined.
5. Since the suit had progressed to the stage of the examination of the defendant's witness and the application had been filed belatedly, the petitioner's application for repair works was dismissed and cost of Rs. 10,000/- (Rupees Ten Thousand Only) was imposed. December 4, 2025 was fixed for filing receipt of payment costs and for examination of the defendant's witness.

6. Challenging the said order, the petitioner has filed C.O. 4106 of 2025.
7. On December 04, 2025 the petitioner prayed for an adjournment since C.O. 4106 of 2025 was pending consideration before this Court.
8. Such adjournment was refused by the learned Trial Court by the order dated April 16, 2026, hence C.O. 1475 of 2026 has been filed.
9. Mr. Ghosh learned Advocate appearing for the petitioner submits that the tenanted premises comprises three tin shed rooms and one tin shed kitchen together with tin shed bath and privy. Such premises badly needs repairs and accordingly, an application under Section 151 of the Code had been filed before the learned Trial Court.
10. It is submitted that as an adjournment had been prayed for on the said date, therefore, the learned Trial Court dismissed the said application upon imposing costs. It is submitted that by the subsequent order the defendant's evidence has been closed. He submits that on the said date the petitioner prayed for adjournment since the order directing

payment of costs and rejecting the application for repair was under challenge.

11. Mr. Bhattacharya, learned Advocate appearing for the opposite parties in his usual fairness submits that there is no objection as regards repair of tenanted premises subject to the condition that the petitioner does not change the nature and character of the suit premises. He however submits that the delaying tactics of the defendant was required to be dealt with in iron hand which has been justifiably done by the learned Trial Court.

12. Heard Mr. Ghosh, learned Advocate appearing for the petitioner and Mr. Bhattacharya learned Advocate appearing for the opposite parties.

13. Since the parties are *ad idem* as regards the repair of the tenanted premises the petitioner can be permitted to effect appropriate repairs in respect of the suit premises without changing the nature and character thereof in the garb of such repair.

14. Accordingly, the order dated September 11, 2025 is modified to the extent that the petitioner's application under Section 151 seeking repairs of the tenanted premises

would stand allowed and the petitioner would be entitled to effect repairs to the tenanted premises without changing the nature and character thereof. The direction for payment of costs shall however remain.

15. As regards the other impugned order dated April 16, 2026 it appears that the petitioner had prayed for an adjournment which was refused and the petitioner's evidence was closed.

16. Since adduction of evidence is an important part of the fair trial procedure of the judicial system, therefore, for ends of justice one more opportunity is being allowed to the petitioner to adduce evidence. The learned Trial Court shall permit the petitioner's witness to be examined and to adduce evidence on any date fixed by the learned Trial Court. On such date, if an adjournment is again sought for by the petitioner's, the petitioner evidence would stand closed. The order dated April 16, 2026 stands set aside.

17. With the above observations **C.O. 4106 of 2025 and C.O. 1475 of 2026** stand disposed of. There shall be no orders as to costs.

18. Learned Trial Court is requested to expedite the hearing of the suit and dispose of Title Suit No. 1027 of 2023 as expeditiously as possible without granting any unnecessary adjournment to either of the parties.

19. 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.)