

12.05.2026  
Ct. No.6  
Sl. No.4  
skg

**C.O. 4209 of 2025**

**Sri Bholanath Dinda & Anr.**  
**Vs.**  
**Smt. Chaiti De @ Chaiti De (Pattanayak)**

Mr. Partha Pratim Roy,  
Mr. Agniswar Bhuiya,

...for the Petitioners

Mr. Gopal Chandra Ghosh, Sr. Adv.  
Mr. Nilratan Banerjee,  
Mr. Prasenjit De,

...for the opposite party

1. This revisional application is directed against an order dated November 19, 2025 passed by the learned Additional District Judge 4<sup>th</sup> Court, Tamluk, Purba Medinipur in Misc. Appeal No. 23 of 2025 whereby the petitioner's application for stay of all further proceedings in the said appeal has been rejected.
2. The opposite party had filed an application for preemption under Section 8 of the West Bengal Land Reforms Act, 1955 which was registered as Misc. Judicial (Preemption) Case no. 08 of 2017. The said preemption case was allowed on contest by holding that the opposite party being a co-sharer of the relevant plot of land had every right to pray for preemption under Section 8 of the 1955 Act.

3. Feeling aggrieved by the said order the petitioner preferred an appeal before the learned Appellate Court which has been registered as Misc. Appeal No. 23 of 2025. The issue involved in the case is as to whether upon the transfer/conveyance of the entire share or the entire portion of a plot of land of a co-sharer to any person other than a co-sharer-raiyata proceeding for preemption can be maintained and there is a divergence of opinion of various Hon'ble Benches of this Court. Accordingly, the aforesaid issue has been referred to a larger Bench and such issue is pending consideration before the larger Bench of this Court. In such view of the matter, an application was made by the petitioner before the learned appellate Court for staying all further proceedings of Misc. Appeal No. 23 of 2025 till such time a decision was rendered on such issue by the larger Bench of this Court. The learned Appellate Court has rejected such application on the basis of the provisions of Section 10 of the Code of Civil Procedure, 1908.
4. Mr. Roy, learned Advocate appearing for the petitioner submits that the learned Appellate Court has misapplied the provisions of Section 10 of the Code and failed to appreciate that since there is divergence of opinion and law is in a state of flux it would not be

possible for the learned Appellate Court to decide the matter fully.

5. He has drawn the attention of this Court to an order dated March 8, 2026 passed by a co-ordinate Bench of this Court in C.O. 1306 of 2009 whereby the aforesaid issue has been referred to the larger Bench of this Court for resolution.
6. He has also cited an order dated October 24, 2025 passed by a co-ordinate Bench of this Court in C.O. 3455 of 2025 whereby this Court has directed stay of all further proceeding in Judicial Misc. Case no. 27 of 2019 pending before the learned Civil Judge (Jr. Div.) 2<sup>nd</sup> Court, Tamluk, Purba Medinipur, while holding that the issue goes to the root of the jurisdiction of the Court to proceed with the case.
7. Mr. Ghosh, learned Senior Advocate appearing for the opposite party fairly submits that the rejection of the petitioner's application for stay was not proper inasmuch as the issue as aforesaid is indeed pending consideration before the larger Bench of this Court and similar matters have been entertained and stay has been granted by this Court.
8. Having heard learned Advocates appearing for the respective parties and having considered the material on record, this Court is of the view that the appellate proceeding deserves to be stayed. In such context the

following extract of the order dated March 8, 2026 passed by this Court in C.O. 1306 of 2009 whereby the issue indicated hereinabove was referred to larger Bench may be noted:

“.....

*The conflicting views by two coordinate Benches constrained me to think, out of the two views which one should be followed in doing substantive justice between the parties. These conflicting views also create confusion among the Judges of Courts below as they are not so much trained about the “law of precedents” etc. in view of my discussion supra the matter be referred to larger Bench to decide:-*

***“Whether the right of pre-emption is available to the per-emptor in case of transfer/conveyance of entire share or entire portion of a plot of land of a co-sharer to any person other than the co-sharer raiyat?”***

*10. The Registry is directed to place the matter before the Hon’ble Chief Justice, High Court at Calcutta for placing the matter in the appropriate Bench.*

**Later**

*1. List this matter for hearing after receipt of the answer of the reference.”*

9. In such view of the matter the order impugned is set aside. The proceeding before the appellate court in Misc. Appeal no. 23 of 2025 shall remain stayed till

the end of July, 2026. The parties shall intimate the learned Appellate Court about the outcome of the pending reference before this Hon'ble Court whereafter, the learned Appellate Court shall proceed with the pending misc. appeal in accordance with law.

11. In case, the reference is not decided, by the said date i.e. end of July 2026, the parties shall be at liberty to pray for extension for stay before the learned Appellate Court, which shall be appropriately considered by the learned Appellate Court.
12. Accordingly, C.O. 4209 of 2025 stand disposed of. There shall be no order as to costs.
13. 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.)**