

CO. 4430 of 2025

07.05.26
D/L
SI-06
Ct. 06
(Samar)

**Sri Badal Chand Bera & Ors.
V.
Maidul Islam & Ors.**

Mr. Soumen Kumar Dutta,
Mr. Subham Dutta,

... for the petitioners.

Mr. Sounak Bhattacharya,
Mr. Sounak Mandal,
Mr. Abhirup Halder,
Mr. A. Saha Roy,
Ms. Bipasha Bhattacharya,

.... for the Opposite parties.

1. This revisional application assails an order dated December 11, 2025 passed by the learned Civil Judge (Junior Division), 1st Court, Contai, Purba Medinipur in J. Misc. Case No. 116 of 2025 arising out of Title Execution Case No. 02 of 1989.
2. The petitioner had instituted Title Suit No. 432 of 1978 praying *inter alia* for a decree of declaration of title and recovery of possession upon eviction of the one Sridham Chandra Jana and 11 others.
3. The said suit was decreed on June 29, 1988. The decree withstood challenge in an appeal before the appellate Court as well as in a second appeal before this Court. The said decree was put into execution by filing Title Execution No. 2 of 1989. In the said Title Execution Case, the opposite parties herein have filed an application under Order 21 Rule 99 to 101, of the Code of Civil Procedure which has been registered as J. Misc. Case No. 116 of 2025.

Although, by an order dated November 17, 2025 learned Executing Court had fixed December 12, 2025 for execution of the decree and December 15, 2025 for filing of report of the Nazir, yet, upon the filing of J. Misc. Case No. 116 of 2025 on December 11, 2025 the execution case has been stalled.

4. Having heard the learned advocates appearing respective parties and having considered the material on record, this Court finds that the learned Trial Court was not at all justified in putting off the Execution Case completely upon the filing of the application under Order 21 Rule 99 to 101 without first considering the merit of the application.
5. We must remember the resounding words of the Hon'ble Supreme Court in the case of **T. Arivandandam vs. T. V. Satyapal & Another** reported at **AIR 1977 SC 2421**. The Hon'ble Supreme Court had observed that "*An activist Judge is the answer to irresponsible law suits*" and that the Court should endeavour to ensure that "*bogus litigation*" is "*shot down at the earliest stage*". Although the said judgment had been rendered in the context of a frivolous suit, yet, there is no reason why the same caution and attention commanded by the Hon'ble Supreme Court to be exercised in suits cannot and should not be applied to applications under Order 21 Rule 97 to 101 of the Code of Civil Procedure, in order to weed out

dead wood at the threshold.

6. No reason has been assigned by the learned Executing Court to justify the order of stay of the execution case. The learned Executing Court has after summarising the facts mentioned in the application filed by the opposite parties only mentioned that the opposite parties have made out an arguable case. There is nothing to show why and how the case was arguable. The factual summary does not show anything so arguable that would have justified the stay of the execution case.
7. In such view of the matter, the order dated December 11, 2025, staying the Title Execution case no. 2 of 1989 is set aside.
8. This Court has been informed that June 11, 2026 is the next date fixed for the execution case. In such view of the matter, this Court requests the learned Executing Court being the learned Civil Judge (Junior Division), 1st Court, Contai, Purba Medinipur to dispose of J. Misc. Case No. 116 of 2025 as expeditiously as possible and prior to the date fixed for the execution case so that the execution case can proceed unhindered thereafter, in accordance with law.
9. The learned Court is requested to ensure that in cases like the one at hand, stay is not granted merely for the asking unless a really meritorious case is made out. It is also made clear that the

execution case should not be stalled merely due to the pendency of J Misc. Case of 116 of 2025, if no real and meritorious case for stay thereof is made out.

10. With the above observations, CO. 4430 of 2025 stands disposed of.

11. 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.)