

02.02.2026  
M/L No.333  
Court No.6  
(gc)

**CO 4556 of 2025**

**Dulal Chandra Pahari & Ors.  
Vs.  
Sri Shankarasis Pahari & Ors.**

Mr. Jayanta Das,  
Ms. Soumita Ghosh

.....for the Petitioners.

Mr. G.K. Das,  
Mr. Kapil Ch. Sahoo

...for the Opposite Parties.

1. The petitioners are aggrieved by an order dated November 15, 2025 passed by the learned Civil Judge (Junior Division), Dantan, Paschim Medinipur in Title Execution Case No.1 of 1997. The said execution case arises out of a judgment and decree dated March 5, 1988 passed by the learned Civil Judge (Junior Division), Dantan, Paschim Medinipur. By the order impugned, the learned Court allowed the application seeking police help and directed the S.P., Paschim Medinipur to furnish and report on the police cost required in respect of one Sub-Inspector of Police, two Assistant Sub-Inspectors of Police, six male police constables and six female constables from Belda Police Station. The petitioners allege that without registering the application for police help as a J. Misc. Case, the same could not have been allowed. I find that the decree-holder sought for execution of the decree passed

in Title Suit No.192 of 1985 by filing Title Execution Case No.1 of 1997. The suit for eviction was decreed some time in 1988 till now the decree-holders have not been able to execute such decree owing to the resistance of the petitioners, although, the judgment debtor did not challenge the decree by filing an appeal. It also does not appear that the petitioners had been successful at any stage in challenging the executability, discharge and satisfaction of the decree. The petitioners claimed through the judgment-debtor and they were brought on record only in the execution as the legal representatives/heirs of the judgment-debtor. The decree is binding on them.

2. The learned Court found from the bailiff's report that on October 29, 2025, the bailiff was obstructed by the petitioners during the execution of the decree. It was apparent from the report that on account of the resistance, execution could not be carried out by the Court bailiff. In order to achieve proper and smooth execution of the decree, the prayer for police help was allowed and the S.P., Paschim Medinipur was asked to file a report with assessment of cost. It is informed to the Court that the report for such cost was received by the learned Court and the decree-holders have deposited the same.

3. An execution case can be dismissed if the decree is inexecutable or cannot be satisfied or discharged on certain legal grounds. The objection that the application for police help should have been registered as a J. Misc. Case is only an issue of technicality. The petitioners participated in the proceeding and opposed such prayer. Not every application for police help is an application under Order 21 Rule 97 of the Code of Civil Procedure. There is nothing on record which would show that the petitioners were armed with any order of a competent forum which prevented the execution of the decree. Execution of the decree is the duty of the court. The bailiff cannot be obstructed. If they resist execution, it is the duty of the court to ensure execution with the aid and assistance of the police.

4. Reference is made to the decision of ***Rahul S. Shah v. Jinendra Kumar Gandhi and Ors.***, reported in **(2021) 6 SCC 418**, the Hon'ble Apex Court directed as follows:-

**“41.** Having regard to the above background, wherein there is urgent need to reduce delays in the execution proceedings we deem it appropriate to issue few directions to do complete justice. These directions are in exercise of our jurisdiction under Article 142 read with Article 141 and Article 144 of the Constitution of India in larger public interest to subserve the process of justice so as to bring to an end the unnecessary ordeal of litigation faced by parties awaiting fruits of decree and in larger perspective affecting the faith of the litigants in the process of law.

**42.** All courts dealing with suits and execution proceedings shall mandatorily follow the below mentioned directions:

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**42.9.** The court should allow taking of evidence during the execution proceedings only in exceptional and rare cases where the question of fact could not be decided by resorting to any other expeditious method like appointment of Commissioner or calling for electronic materials including photographs or video with affidavits.

**42.10.** The court must in appropriate cases where it finds the objection or resistance or claim to be frivolous or mala fide, resort to sub-rule (2) of Rule 98 of Order 21 as well as grant compensatory costs in accordance with Section 35-A.

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**42.12.** The executing court must dispose of the execution proceedings within six months from the date of filing, which may be extended only by recording reasons in writing for such delay.

**42.13.** The executing court may on satisfaction of the fact that it is not possible to execute the decree without police assistance, direct the police station concerned to provide police assistance to such officials who are working towards execution of the decree. Further, in case an offence against the public servant while discharging his duties is brought to the knowledge of the court, the same must be dealt with stringently in accordance with law.”

5. Reference is made to the decision of **Gaya Nath vs Amulya Chandra** reported in **AIR 1957 Cal 252**. This judgment supports the view that an application for police help is essentially different from an application under Order 21 Rule 97 of the Code of Civil Procedure. The court held as follows:-

“**12.** If the decree cannot be effectively executed without police help the decree-holder may apply to the Court for the grant of such help. An application for police help is essentially different from an application under order 21 rule 97 though the two applications are often joined in one petition. This Court has framed special rules for dealing with applications for police help (See *Manual of the Court*

of *Small Causes, Calcutta*, Volume II, Part 4, Chapter IV, page 54, rules 137 and 137A to 137D; Civil Rules and Orders, Volume I, page 80, rule 261; Original Side Rules, Chapter 17, rules 14A to 14D.

**13.** An order for police help vitally affects all persons in actual possession of the property. With the powerful backing of such an order all persons in actual possession whether they are bound by the decree or not are likely to be evicted *brevi manu* from the property summarily. Relief by way of restoration of possession obtained by an application under Order 21. rule 100 is poor consolation for a person who is unlawfully dispossessed. The Court should, therefore, proceed with great caution in granting police help. The Court should not hesitate to give such aid if execution of its process is unlawfully obstructed and its process cannot be executed without such aid."

6. Thus, the application may not be under Order 21 Rule 97 of the Code of Civil Procedure but a simple application for assistance to the court bailiff in the course of delivery of possession. This need not be registered as a J. Misc Case. Reference is made to the decision of ***Bandana Das vs Saroj Kumar Das*** reported in **(2009) 1 CHN 878** , the court held as follows:-

"(16). In the facts of the instant case, taking into consideration the pleadings of the decree - holder in his application for police help under Rule 208 of the Civil Rules and Orders, there was no occasion for the learned Court below to reject the application, by observing, inter alia, that complaint of obstruction and resistance was required to be made by the decree-holder under Order XXI Rule 97 of the Code of Civil Procedure, 1908 and the provision of Rule 208 of the Civil Rules and Orders would be attracted only thereafter. It appears that the learned Court below not only failed to take into consideration the specific pleadings contained in the application of the decree-holder, reproduced hereinbefore, but also lost sight of the scope of

Rule 208 of the Civil Rules and Orders, which has been discussed in detail hereinbefore.

(17). The scheme of the various provisions of the Code of Civil Procedure, 1908, entrusts an obligation upon the Court to ensure that a valid decree passed by it is not frustrated by reason of resistance of someone or some persons who cannot even lay a bona fide claim of not being bound by the decree and therefore entitled to resist eviction in execution of the decree.

(18). Order XXI of the Code of Civil Procedure, 1908, provides for execution of decrees and orders. The elaborate provisions of the various rules and sub-rules thereunder provides the Court mechanism to enable execution of its decrees and orders. In my view, as observed hereinbefore, such procedural law cannot be used to obstruct a valid decree being put into execution, by reason of resistance of someone or some persons who cannot even lay a bona fide claim of not being bound by the decree and therefore entitled to resist eviction on execution of the decree. In fact, Order XXI Rule 97 of the Code of Civil Procedure, 1908, is a facilitator to the process of execution and not a hindrance.”

7. The petitioner contends that apart from the decretal property, the petitioners are being removed from their possession outside the decretal property. This issue is not germane for a decision at this stage.
8. Under such circumstances, the revisional application fails and is dismissed.
9. There shall be no order as to costs.
10. Parties are to act on the server copy of this order.

**(Shampa Sarkar, J.)**