

In the High Court At Calcutta
CIVIL REVISIONAL JURISDICTION
CIRCUIT BENCH AT JALPAIGURI
APPELLATE SIDE

Present:

The Hon'ble Justice Debangsu Basak

CO/227/2025
SRI BADAL @ PRADIP DUTTA @ PRADIP RANJAN
DATTA AND ANR.
VS
SRI SATWIK GHOSH AND ORS.

For the Petitioners : Mr. Subham Ghosh, Advocate
Mr. Mayank Roy, Advocate

For the Respondents : Mr. Sudipto Kr. Mazumder, Id. Sr. Advocate
Mr. Mayank Bhandari, Advocate

Heard & Judgment on: January 8, 2026

Debangsu Basak, J.

1. Revisional application is at the behest of a judgment debtor and directed against Order No. 85 dated November 4, 2025 passed in Misc. Case No. 32 of 2024 allowing an application for grant of police assistance.
2. Learned advocate appearing for the petitioners submits that, a decree of declaration of title and perpetual injunction restraining the judgment debtor from entering into the suit property is sought to be misutilised by an application under Order 21 Rule 97 of the Code of Civil Procedure, 1908 in order to oust the judgment debtor from the immovable property concerned. He submits that, in the event, police

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assistance is extended for the purpose of implementation of the decree as it stands today, the petitioners cannot complain.

3. Learned senior advocate appearing for the opposite party submits that the petitioners filed a substantive suit seeking declaration of title which was dismissed. The petitioners suffered a decree in the title suit filed by the opposite party. In such suit, title of the opposite party to the suit property was declared. The petitioners as the defendants were restrained from entering into the suit property.
4. Learned senior advocate appearing for the opposite party submits that, on the petitioners attempting to enter into the suit property, in violation of the subsisting decree, the opposite party filed an application under Order 21 Rule 97 of the Code of Civil Procedure, 1908 which was registered as Misc. Case No. 32 of 2014. He draws the attention of the Court to an order being Order No. 63 dated March 30, 2022 passed in such Misc case. He submits that, the substantive order by which, the learned trial Judge decided to grant police assistance which is, order dated March 30, 2022, was not assailed by the petitioners. The consequential order, as impugned in the present petition, allowing the opposite party to put in the costs for the police assistance, is sought to be allowed. According to him, the revisional application is not maintainable.
5. The opposite party as the plaintiff filed a suit for declaration. A perpetual injunction in such suit was decreed. Subsequent to the decree, the opposite party approached the executing Court by way of an application under Order 21 Rule 97 of the Code of Civil Procedure, 1908 which was registered as Misc. Case No. 32 of 2024.
6. Averments in the application under Order 21 Rule 97 of the Code of Civil Procedure, 1908 is that, the petitioners are attempting to enter

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into the suit property despite the subsisting decree of declaration and perpetual injunction. Police assistance was, therefore, sought for.

7. Maintainability of the application under Order 21 Rule 97 of the Code of Civil Procedure, 1908 was raised on behalf of the petitioners herein. Such maintainability issue was decided as against the petitioners, by the Order No. 63 dated March 30, 2022. Petitioners herein did not assail such order No. 63 dated March 30, 2022.
8. Subsequent thereto, by the impugned judgment and order dated November 4, 2025, learned executing Court allowed the prayer for police assistance.
9. Materials available to Court establish that, the decree of perpetual injunction restrains the petitioners from entering into the suit property. Police assistance was sought for on the basis of that, the petitioners herein were seeking to enter into the suit property in violation of the subsisting decree.
10. Possession of the petitioners at the suit property was never established. The substantive suit of the petitioners was dismissed. The petitioners suffered the decree as presently subsisting.
11. In such circumstances, the impugned order should be read and construed to mean police assistance was extended for the purpose of enforcing the decree that is, restraining the petitioners herein from entering the suit property.
12. In such view, I find no material irregularity warranting interference.
13. CO/227/2025 is **disposed of** without any order as to costs.

(Debangsu Basak, J.)