

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE

EC/15/2026

ASHA BANSAL AND ORS.
VS
USHA KAPOOR AND ANR.

BEFORE:
THE HON'BLE JUSTICE ANANYA BANDYOPADHYAY
Date: 24th June, 2026

Appearance:
Mr. Meghnad Dutta, Adv. (VC)
Mr. Rajesh Upadhyay, Adv.
... for the decree-holder

The Court:- The decree holders instituted C.S. No. 285 of 2022 seeking recovery of khas possession of the immovable properties delineated in Schedules "A", "B", "C", "D" and "E" of the plaint, together with consequential reliefs. Writ of summons accompanied by the plaint was issued upon the defendants. The postal article returned with the endorsement "addressee left without instruction". Leave was thereafter obtained for substituted service and publication was effected in the newspaper, coupled with affixation of notice at the premises. The defendants, despite service having been thus completed in the manner recognized by law, chose to remain absent. By an order dated 12th April, 2024, the suit was directed to proceed as an undefended suit.

Witness action followed. The authorized representative of the plaintiffs entered the witness box as PW-1 and proved the documents relied upon in support of the claim. The testimony of PW-1 and the documentary evidence brought on record persuaded this Court to decree

the suit. By the judgment and decree dated 24th November, 2025, recovery of khas possession of the properties described in Schedules "A", "B", "C", "D" and "E" was directed.

The decree has travelled beyond the realm of adjudication and entered the stage of enforcement. Nothing has been placed before this Court to indicate that the decree has suffered eclipse by reason of any appellate order. Yet, the judgment debtors continue to retain possession of the decretal property with scant regard to the mandate embodied in the decree.

The culmination of a *lis* does not rest in the pronouncement alone. A decree acquires its true efficacy when the rights declared by the Court find translation into reality. The process of execution is not an appendage to adjudication; it constitutes its natural consummation. A decree holder who has secured a verdict after traversing the discipline of trial cannot be left to contend with a decree which remains fruitful in theory and barren in practice.

Order XXI Rule 35 of the Code of Civil Procedure clothes the executing Court with the authority to secure delivery of possession by removing every person bound by the decree who declines to vacate the property. The sanctity of judicial commands would suffer erosion if a decree, having attained finality, is permitted to remain in abeyance at the instance of those against whom it has been pronounced.

The circumstances obtaining in the present case warrant immediate execution of the decree.

Accordingly, the Seal Bailiff of this Court is directed to recover khas vacant and peaceful possession of the properties described in Schedules

"A", "B", "C", "D" and "E" by evicting the judgment debtors and all persons claiming through or under them, including their men and agents, and deliver possession thereof to the decree holders in terms of the judgment and decree dated 24th November, 2025.

Since the efficacy of the process of Court ought not to be left vulnerable to obstruction or resistance, the Deputy Commissioner of Police, Central Division, Kolkata Police, and the Officer-in-Charge of the police station having jurisdiction over the decretal premises shall render all assistance to the Seal Bailiff for securing peaceful delivery of possession and maintenance of law and order.

The Seal Bailiff shall remain at liberty, if occasion so arise, to break open locks, prepare an inventory of articles found at the premises and adopt such measures as are indispensable for complete implementation of the decree.

Let writ for delivery of possession issue forthwith.

Next date be fixed on 5th August, 2026 for filing compliance report.

Urgent photostat certified copies of this order, if applied for, be supplied upon compliance with requisite formalities.

(ANANYA BANDYOPADHYAY, J.)