

Act 39 Case No.109 of 2023

Present : Biswarup Bandyopadhyay, Chief Judge
Order No.14/ dated 12.09.2025:

Petitioner files a petition under Order XXVI Rule 1 read with Section 151 of CPC praying for appointment of an Advocate Commissioner to take or collect or record the evidence of the petitioner Hansa C. Dani in the instant case.

Heard the Ld. Counsel for the petitioner on the application filed under Order 26 Rule 1 read with Section 151 of the Code of civil Procedure.

It is stated by the petitioner by filing the instant petition that the petitioner/applicant has filed the instant case for obtaining Succession Certificate. It is further stated that the petitioner is 99 years old lady and her residential address is at Flat No.12A & D, 12th Floor, 1 Sarat Bose Raod, P.S Shakespeare Sarani, Kolkata-700 020, which is within the jurisdiction of this Court. She also contended that she is suffering from physical infirmity and as she is medically advised not to move out from her residence, she is not in a position to appear before the court for evidence. Under such circumstances, she prays for appointment of an Advocate Commissioner to take or collect or record her evidence, being the sole petitioner in the instant Case at her aforesaid address.

According to Order XXVI Rule 1 read with Section 151 of the Code of Civil Procedure, any Court may in any suit issue a commission for the examination on interrogatories or otherwise of any person resident within the local limits of its jurisdiction who is exempted under this Code from attending the Court or who is from sickness or infirmity unable to attend it.

The Court may, for the purpose of this rule, can accept the appointment of an Advocate Commissioner for recording the evidence of the petitioner for her sickness or infirmity, without calling the medial practitioner as a witness.

On perusal of the instant application as filed, it shows that Hansa C. Dani is an old aged person and suffering from severe ailment and she is confined to bed rest as advised by her doctor.

Therefore, I am of the view that an Advocate Commissioner should be appointed to take/record the evidence of Hansa C. Dani, being the sole petitioner in the instant case.

Thus, the application is allowed.

Let Dipak Kumar Das (9830516945), Ld. Advocate, be appointed as Commissioner to examine Hansa C. Dani and record her evidence on interrogatories or otherwise at her aforesaid resident.

The petitioner is directed to pay Rs. 7,000/- (Rupees Seven thousand) as remuneration of the Ld. Commissioner to the Ld. Commissioner directly.

Issue writ accordingly.

The Ld. Commissioner is requested to submit his/her report by the date

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Contd. ...order No.14, dated 12.09.2025:

fixed.

Fix 28.11.2025 for submission of report by the Ld. Advocate
Commissioner and filing receipt showing payment of remuneration of the Ld.
Commissioner.

Dictated & corrected by me,

Chief Judge

Chief Judge
City Civil Court, Calcutta.