

Misc Case 9745 of 2024 (arising out of T.Ex.03 of 2020)

CNR No.WBCC01-011897-2024

Present: Sri Sanjoy Kumar Das, Judge, Bench-V (WB00627)

Order No.12/ Dated 03.08.2026

Today is fixed for argument.

Both parties filed their respective haziras.

Ld. Advocate for both sides are present.

Heard argument in full from both sides.

Perused the application under Order XXI Rule 97 read with Section 151 of C.P.C. filed by the Dhr. and the materials on record.

By filing this application Jdr. prayed for police help for execution of the decree.

During the course of argument, Ld. Advocate for the Dhr. submitted that the decree is well executable.

On the other hand, Ld. Advocate for the Jdr submitted that no decree for recovery of possession was passed in favour of the Dhr., so question of granting police help does not arise at all.

Perused the decree.

I would like to mention the terms of the decree here for the purpose of effective adjudication of this application.

The terms of decree is as follows :

“That the instant suit be and the same is decreed in part on contest against the defendants without cost.

The plaintiffs do get a decree of declaration that they are the co-owners of the suit property. The plaintiffs do further get a decree of permanent injunction against the defendants in respect of the “A” schedule property.

The defendants are hereby permanently restrained from disturbing the plaintiffs possession in the suit premises as co-owners.”

Therefore from the above decree it appears that there is no decree of recovery of khas possession of the suit property. It is merely a decree of declaration and permanent injunction.

It is the fundamental principal of law that executing court cannot go behind the decree.

Therefore, considering the entire discussions made above this Court is of the opinion that the instant Misc Case is not maintainable in the eye of law.

Hence it is

ORDERED

that the Misc. Case be and the same is dismissed on contest but without cost.

Consequently, the Title Execution case no. 03 of 2020 is also dismissed.

The execution case is thus disposed of.

D/c by me,

Judge, Bench-V
City Civil Court, Calcutta

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