

West Bengal Form No. 3701

High Court Form No. (J) 2

HEADING OF JUDGMENT IN ORIGINAL SUIT/CASE

District : Kolkata

IN THE COURT OF : Judge, Bench - II,

Presidency Small Cause Court, Calcutta

PRESENT : Smt. Pratima Shukla

(JO CODE No. WB01165)

Judge, Bench - II,

Presidency Small Cause Court, Calcutta.

THURSDAY of the 12th day of MARCH, 2026.

MISC. CASE :- 18 OF 2024

(CNR No. WBPS01-000049-2024)

(REGISTRATION NO. 18 of 2024)

1) Sri Jayanta Kumar Das

2) Sri Baidyanath Das Decree holders/ Plaintiffs

-----V E R S U S-----

1) Sri Gouri Sankar Banerjee Judgment debtor

2) Sanku Banerjee Opposite party/ Resistor

This suit/case is coming on for final hearing on 26.02.2026 & 09.03.2026.

In presence of Smt. Pratima Shukla, Judge, Bench - II, Presidency Small Cause Court, Calcutta.

Mr. Basab Shaw, Priyanka Das and Avisek Das

.....Advocate of the Decree holders/ Plaintiffs

Mr. Anupam HaitAdvocate of the Opposite party/ Resistor

And having stood for consideration to this day, the Court delivered the following judgment :-

This is an application under Order 21 Rule 97 of C.P.C. read with Section 151 of C.P.C.

FACT OF THE CASE :-

The facts of the case, in concise form, is that the petitioners had filed the Ejectment Suit registered as Ejectment Suit No. 173 of 2016 against the defendant/ judgment debtor for a decree of eviction and delivery of vacant khas possession of the suit property more fully and particularly described in the schedule of the plaint on the grounds stated therein.

The petitioner stated that to pass the judgment, order and decree dated 12.04.2021 in Ejectment Suit No. 173 of 2016 it was put into execution and the same is registered in the instant case.

The Ld. Court was satisfied to fix the delivery of possession of the decreetal property in the instant case on 05.01.2024 and as such the possession bailiff went to the suit premises on the same day with the writ issued from the department and duly read over and explained the said contents therein to the judgment debtor's representatives who were present in the decreetal property inasmuch as the same were identified by Decree holder No.1 which was correct as per the schedule of the decree.

After the bailiff of this Court requested and made the judgment debtor/ defendant representatives understand that they should quit, vacate and deliver vacant khas possession of the decreetal property as per the writ of the Learned Court, the Judgment Debtor/ defendant representatives being the opposite party started strong resistance and vehement opposition of the same and due to breach of peace and disturbances of apprehension of tranquility the bailiff was unable to deliver possession of the suit rooms described in the schedule of the decree.

Under the aforesaid facts and circumstances, police assistance and/or help may kindly be allowed as per the requirements hereunder :- (A) Two Sub-Inspectors, (b) One Assistant Sub-Inspector, (c) Two Lady Constables and (d) Two Constables enabling the bailiff of this Learned Court to execute the decree passed by evicting the defendant/ judgment debtor

from the schedule of the decree and the petitioner are ready and willing to pay the necessary costs and expenses to that effect for adequate police help and the letter of request to be sent to the Deputy Commissioner of Police, North, through the Officer-in-Charge Muchipara Police Station, for arranging necessary Assistance upon the direction of this Learned Court and as such for ends of justice the same may kindly be allowed otherwise we shall suffer insurmountable losses and injuries.

The petitioners submitted that necessary order for police help be issued accompanied by Two Sub-Inspectors, One Assistant Sub-Inspector, Two Lady Constables and Two Constables to assist the Court Bailiff for executing the writ of possession in terms of decree in respect of decretal premises to the decree holders.

The bailiff will not be able to execute the decree unless he is assisted by the police.

In the aforesaid circumstances, there is an apprehension of serious breach of peace and the writ of possession could not be executed without the help of the Police Officials.

Case of the Judgment Debtor / Opposite Party :-

Opposite party has not filed written objection against the said Misc. Case application but Opposite Party has adduced evidence as O.P.W-1.

In support of his contentions, petitioner has adduced evidence from his side.

The Petitioner, Jayanta Kumar Das has adduced evidence on behalf of the Petitioner as P.W.1 and Seal Bailiff namely Abhijit Chowdhury as P.W-2 and the documents filed by him have been marked as Exhibits as follows:-

1. The signature of P.W-1 - Exhibit - 1.
2. The Bailiff Report bears signature of Seal Bailiff - Exhibit - 2.

In support of his contentions, Judgment debtor namely Sri Gouri Sankar Banerjee as O.P.W.-1 has adduced evidence from his side and the documents filed by him have been marked as Exhibits as follows:-

1. Certified copy of the plaint in respect of Title Suit No. 3208/08 filed by Jayenta Kumar Das and Baidyanath Das - Exhibit A (With objection).

2. Original copy of the electricity bill in the name of Sadananda Banerjee for the month of March, 2025 - Exhibit B (With objection).

3. Computer generated copy of the assessment (N.O.C) issued by K.M.C. - Exhibit C (With objection).

On 05.02.2024 at about 3:00 p.m., the seal bailiff of this Ld. Court went to decreetal property along with decree holder no.1 namely Jayanto Kumar Das. He identified to the decreetal property to the Seal Bailiff which was in accordance of the schedule of the decree. The seal bailiff checked and verified the same and found it correct. One of the representative namely Sanku Banerjee was present there. Then the bailiff read over and explain the order of decree of the court and asked the representative of the Jdr. to vacate the decreetal property but the representative of the judgment debtor did not obeyed the order of the court to vacate the decreetal property and there was apprehension of breach of peace due to strong resistance by the representative of the judgment debtor because of which the decree was not executed on that day.

Thereafter, the bailiff has prepared his report in his own handwriting and also bears the signature and Dhr. no. 1 made his remarks on the back of the writ which was marked as Exhibited.

In the present circumstances, the writ of possession can't be executed without help of the police.

It is essentially required the police help consisting of Two Sub-Inspectors, One Assistant Sub-Inspector, Two Lady Constables and Two Constables for assisting the seal bailiff in the process of delivery of

possession of the decreetal premises to the above named petitioners/ decree holders.

The petitioners / decree holders undertake to deposit the necessary cost in the Ld. Court or in the Department of Police Authority, as per the order of this Ld. Court for this purpose.

DECISION WITH REASONS:-

On perusal of the evidence adduced by P.W-2 who is Seal Bailiff of this court, it appears that on 05.02.2024 at about 3:00 P.M. when the seal bailiff went to deliver possession in accordance with the writ issued by this court but due to strong resistance by representative of the judgment debtor, the seal bailiff failed to execute the decree.

Perused the bailiff report (Exhibit 2) which corroborated the statement of P.W-1.

The statement of P.W-1 is duly supported by P.W-2.

The court is of the view that the execution of the decree is not possible without the help of police as required by the decree holder.

The prayer of decree holder for requirement of police help consisting of Two Sub-Inspectors, One Assistant Sub-Inspector, Two Lady Constables and Two Constables is allowed.

The Deputy Commissioner of Police, (North Division), Kolkata is directed to assist the Seal Bailiff of this court with Two Sub-Inspectors, One Assistant Sub-Inspector, Two Lady Constables and Two Constables at the time of the execution of decree.

The Decree holder is directed to pay the necessary cost.

Thus, the instant misc case is disposed off accordingly.

D/C by me.

Sd/-

Judge, Bench - II,
P.S.C. Court, Calcutta.

Sd/-

Judge, Bench - II,
P.S.C. Court, Calcutta.