

Ej. Suit No. 119 of 2022
CIS: WBPS01-000183-2022

Order No. 58

Date: 16.07.2025

Today is fixed for cross examination of PW-1.

Parties have filed haziras through their Ld. Advocates.

Defendant files an application for adjournment of proceeding of this suit today and fix another date for hearing of this suit. Copy served upon the other side.

Heard both sides.

The Ld. Lawyer for the defendant submitted that two Revisional Applications are pending before the Hon'ble High Court against the orders passed by this Court, hence adjournment be granted this day.

The Ld. Advocate for the plaintiff submitted that the defendant is trying to delay the proceeding of the suit and despite given several adjournments, the defendant is not proceeding with the cross-examination of the PW-1, hence, the cross-examination of PW-1 be closed.

Perused.

Considered.

It appears that the PW-1 was cross-examined in part lastly on 27.01.2025 and deferred on the prayer of the defendant. In the meantime the defendant filed application under Section 151 of the CPC praying for recall of the order no. 30, dated 07.05.2024 vide which the defence of the defendant have been struck off u/s 7(3) of the WBPT Act, 1997. Again, the defendant filed an application u/s 151 of the CPC on 11.02.2025 praying for stay of the proceeding until the disposal of the Title Suit No. 133 of 2023 pending before the City Civil Court, Calcutta which was also rejected. Thereafter, the proforma defendant filed another application u/s 151 of the CPC claiming that the suit is not maintainable against the defendant as he is the co-owner of the suit premises on purchase of the same from proforma defendant. The said application was also rejected and now instead of proceeding with the cross-examination of the PW-1 the defendant prays for adjournment on the ground that the Revisional Applications are pending before the Hon'ble High Court at Calcutta.

The defendant has not filed any document showing that the Hon'ble High Court has stayed the proceeding of the instant suit. It is the settled position that mere preferring a revisional application does not entitle a party preferring such application to obtain an order of stay from the Trial Court.

It is pertinent to mention here that the Hon'ble High Court was pleased to direct for not staying matters pending before it without any specific order of stay vide order dated 26.02.2013 passed in CRR No. 2683 of 2009 which was communicated to all the Courts of the District Judiciary of West Bengal vide Memo No. 1397-RG, dated 08.04.2013

The record reveals that since 27.01.2025 the cross-examination of PW-1 has not progressed on various pretexts. The defendant seems reluctant to cross-examine the PW-1.

In view of the above, the cross-examination of PW-1 is closed.

Fixing 03.09.2025_for DW.

Dictated and corrected by me:

Judge

Smt. Glady Bomjan
J.O. Code : 01039
Judge, 3rd Bench
*Presidency Small Cause Court,
Calcutta.*