

MISC. CASE :- 147 OF 2024
(CNR No. WBPS01-000566-2024)
(JO CODE No. WB01165)

Before Smt. P. Shukla, Ld. Judge, 2nd Bench.

Order no. - 35
Dt. 09.03.2026

Today is fixed for passing order in respect of an application dated 13.03.2025.

Both parties filed hazira.

It is submitted by Ld. Advocate for the petitioner that one appeal is filed before West Bengal Land Reform and Tenancy Tribunal Vide. O.A. No. 3408 of 2024.

He further submitted that the suit property is presently sub-judice at the instance of decree holder and opposite party.

Therefore petitioner prays to stay the further proceeding of Execution Case in view of the aforesaid reason.

O.P/ Decree holder no. 1 has contested the same by filing written objection.

It is submitted by Ld. Advocate by O.P. that petitioners have no cause of action and locus standi to file the instant application. O.P. has denied and disputed the submission and contentions of the petitioner. It is further submitted by O.P. that he has no knowledge regarding pendency of any alleged appeal before West Bengal Land Reforms and Tenancy Tribunal Vide O.A. No. 3408 of 2024.

The O.P. prays for dismissal of the instant application.

Heard. Considered.

Perused the entire document available on the case record.

It appears that the petitioner are third party and not the judgment debtor. A third party can seek a stay of execution when they have a legally protect-able interest in the property being attached (Order 21 Rule 58 of CPC) or if their wrongfully disposes. They must so prima facie right independent of the judgment debtor such as holding lawful title.

In this application the sole ground on the basis of which the petitioner is seeking stay of execution case is pendency of case before West Bengal Land Reform and Tenancy Tribunal Vide. O.A. No. 3408 of 2024.

The court is of the view that there is specific direction of the Hon'ble Supreme Court that the Execution Cases must be disposed off within six months or as early as possible.

From the perusal of instant application, it does not appear that the petitioner has a legally protect-able interest in the property. It also appears that there is no stay order or any appeal is pending before any Upper Forum.

The petitioner has not filed any document in respect of said appeal no. 3408 of 2024.

Therefore, on the basis of the above reason, this Court do not find any urgency in this matter to allow the stay application.

Hence, it is

ORDERED

That the application dated 13.03.2025 is rejected on contest without any order as to cost.

To 24.04.2026 for hearing of Misc. Case.

D/C by me.

Sd/-

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

Sd/-

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