

Misc. Case 177 of 2025

WBPS01-000670-2025

(under Order 21 Rule 97 of C.P.C)

Before: Smt. Glady Bomjan, Ld. Judge, 3rd Bench

Order No: 15

Date: 05-03-2026

Today is fixed for step by the petitioner/ decree holder.

Petitioner files a petition under Order 1 Rule 10 (2) r/w Section 151 of C.P.C. on the grounds stated therein.

Opposite party takes no step.

Today, the petition under Order 1 Rule 10 (2) r/w Section 151 of C.P.C. filed by the petitioner is taken up for hearing.

Heard Ld. Advocate for the Petitioner. Perused the petition and other materials on record.

Considered.

By the instant petition, petitioner has contended that the plaintiff/ petitioner had filed the Ejectment Suit 184 of 2017 against the defendant/ opposite party. The said suit was decreed ex-parte on 17.02.2025. Thereafter, plaintiff petitioner had filed the Ejectment Execution Case being no 55 of 2025 for putting the decree into execution. On 23.07.2025 Seal Bailiff went to the suit premises for delivery of khas possession but could not do so, as the brother of judgment debtor/ opposite party namely Md. Shahid resisted him.

Thereafter, plaintiff/ petitioner has filed the instant Misc. Case for executing the decree with the help of police help. After conclusion of the hearing of the instant Misc. Case it was found that the resistor Md. Shahid has not been made party to the Misc. Case. As such, the plaintiff/ petitioner has filed the instant petition for adding Md. Shahid as resistor/ opposite party no 2 for proper adjudication of the Misc. Case. Unless the said petition is allowed, petitioner shall suffer loss and injury.

On perusal of the bailiff report, it appears that the bailiff could not execute the decree as Md. Shahid had resisted him. Record reveals that the petitioner has filed the instant Misc. Case under Order 208 of C.R.O. against the opposite party Md. Tarique only. Resistor Md. Shahid was not made party to the Misc. Case.

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Considering the above, this Court is of the view that the petition filed by the petitioner may be allowed for the interest of justice and Md. Shahid, the resistor ought to be made party to the Misc. Case for proper adjudication of the same.

Hence, it is

Ordered

that the petition under Order 1 Rule 10 (2) r/w Section 151 of C.P.C. filed by the petitioner this day is hereby allowed.

Let the name of Md. Shahid , son of Lt. Mujibur Rahman, of 7, Colootola Lane, 4th Floor, Suit No. 9, P.S. Bow Bazar, Kolkata- 700073, be added as Resistor/ Opposite party no 2 in the Cause Title of the Misc. Case.

Office to do the needful.

Petitioner is directed to file Amended copy of Misc. Case Application on the next date.

On careful perusal of the case record it appears that notice upon the opposite party Md. Tarique has not been served till this day.

Under such circumstances, petitioner is further directed to put in requisites for service of notice upon both the opposite parties in both ways.

Office is directed to issue process, if the requisites are found to be proper and correct.

Fix **05-05-2026** for filing amended copy of Misc. Case Application and S/ R and A/D.

Smt. Glady Bomjan

[J.O. Code: WB1039]

Judge, 3rd Bench

Presidency Small Cause Court,
Calcutta