

MISC. CASE :- 193 OF 2025
(CNR No. WBPS01-000758-2025)
(JO CODE No. WB01165)

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

Order no. - 90
Dt. 19.12.2025

Today is fixed for hearing of stay petition in the Misc. Case.

Both parties filed hazira.

Heard the petition under Section 151 of CPC filed by petitioner who prays to stay of further Ejectment Execution Case and be kept in abeyance until or unless Misc. Case No. 193 of 2025 be disposed off.

It is submitted by Ld. Advocate for petitioner that original tenant Zainul Huda Khan died on 21.11.1998 and his legal heirs became common tenants but other legal heirs not become party to the Ejectment Suit No. 200 of 2000.

Respondent/ Decree holder raised strong objection.

Heard. Considered.

Perused the entire document available on the case record.

It appears that petitioner has filed Misc. Appeal No. 58 of 2018 before the Ld. Judge, IVth Bench, City Civil Court, Calcutta and by the judgment dated 20.05.2025 the said Misc. Appeal was dismissed on contest.

The said Misc. Appeal was filed on the same ground by raising the same issue.

On perusal of the entire documents available on the case record, it appears that petitioner was duly added as party to the ejectment suit which was decreed on contest against the present petitioner.

The petitioner along with other challenged the eviction decree in T.A. No. 28 of 2012 which stood dismissed on 12.09.2013.

So, the petitioner had full knowledge that he was party to the Ejectment Suit and also about the decree passed therein.

There is no explanation from the petitioner that when this dispute is already determined then why he has filed this Misc. Case at such a belated stage.

The petitioner relies upon the judgment in **2024 INSC 7119**.

The instant petition is filed under Order 21 Rule 99.

The remedy provided under Rule 99 is for the benefit of 3rd parties i.e. those who are not party to the suit. Legal Representative of Judgment Debtor does not fit into the description "person other than Judgment debtor" **(2024 AIR (AP) 542)**.

While it is clear that petitioner was a party to the suit and decree so he could not claim remedy under Order 21 Rule 99 of CPC.

Thus, it is apparent that this petitioner is filed at this stage and only to prevent the Decree holder to enjoy the fruit of decree.

It is also pertinent to mention here that there is direction of Hon'ble Apex Court to dispose of execution cases without unnecessary delay preferably within six months. It also appears that till date Judgment debtor has also not paid occupational charges.

The Court do not find any sufficient reason to stay the proceeding of the Ejectment Execution Case.

Thus, stay petition stands rejected.

To 27.01.2026 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.