

**EJ. EXECUTION CASE NO.172 OF 2017**  
**C.N.R. NO. WBPS01-000524-2017**  
**Before Smt. A. Bhattacharya, Ld. Judge, 5<sup>th</sup> Bench.**

**ORDER NO. 49 DATED 29.01.2026**

The applicant of the application for impleadment by devolution of interest files hazira.

The third party resistor also files a written objection against the application under Oder 22 R 10 of C.P.C. read with Sections 146/151 of C.P.C. supported by an affidavit.

Record is taken up for hearing of petition dated 23.06.2025 filed by petitioners namely Md. Akbar Ali, Md.Shabbir Ali, Jawed Ali and Zafar Iqbal under Order 22 Rule 10 of C.P.C. read with Sections 146/151 of C.P.C. The contents of the application is that in pursuance of a registered deed of sale dated 04.04.2025 made between Mr. Thong Joy Leong @ T. J. Leong as the owner/vendor, the petitioners as the purchasers and Mrs. Mary Leong, as the confirming party, registered in the Office of the Additional Registrar of Assurances II, Kolkata being No. 190203850 for the year 2025, the petitioners have purchased the suit premises. Thus the petitioners are necessary party in the instant proceeding and are entitled to be substituted as transferee decree holders in place of the present decree holders with right to execute the decree.

Third party/resistor in his written objection has stated that the instant application is vague, misconceived, full of misstatements and suppression of material facts and not maintainable in law as well as in facts. The applicants have tried to impress upon this Id. Court so as to incorporate them as parties to the execution proceeding on the ground that they have acquired right, title, interest over the suit premises by way of a registered Deed of Sale dated 04.04.2025. It is categorically denied that by a registered Deed of Sale dated 04.04.2025, the applicants/petitioners have acquired interest over the said property. It is also denied that by way of alleged Deed of Sale, the applicants/petitioners cannot be made parties. It is also denied that the

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petitioners have mutated the property in their names as owners in the concerned department of K.M.C. It is denied that the petitioners are necessary parties to the instant proceeding and are very much entitled to be substituted and/or added as transferee decreeholders in place of the present decreeholders. The application is full of malice and should not be allowed by this ld. Court and as such, prayed for rejection of the instant petition.

I have gone through the judgment passed by the Court decreeing the suit. The suit was decreed on grounds of reasonable requirement and defaulter in payment of rent by which the defense of the defendant/tenant was struck out in course of trial. As the suit was decreed on both grounds, the right of the present petitioners to be added in place of the decree holders cannot be curtailed. There is no denial that the property has been transferred in favour of the petitioners by the erstwhile decree holder and the same is also evident from the certified copy of the deed filed by the petitioners.

The applicants could not have had the benefits of a decree passed solely on the ground of reasonable requirement as the requirement of his predecessor will not be his requirement. But as the suit was decreed also on the grounds of defaulter in payment of rent where his defense was struck out under Section 7(3) of the W. B. P. T. Act, the present applicants being purchasers of the decretal property can have the fruits of the decree passed in favour of his predecessor in interest. Thus there is no ground to disallow the applicants to be impleaded as decree holders to the instant execution case by deleting the names of the erstwhile decree holder.

Hence, it is

**ORDERED**

that the petition dated 23.06.2025 under Oder 22 R 10 of C.P.C. read with Sections 146/151 of C.P.C. filed by Md. Akbar Ali, Md. Shabbir Ali,

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Jawed Ali and Zafar Iqbal is hereby allowed on contest but without costs.

Let the names of decree holders namely H.Y. Leong and T.J. Leong be deleted from the cause title of the execution application.

Let the names of Md. Akbar Ali, Md. Shabbir Ali, Jawed Ali and Zafar Iqbal be inserted as decree holder Nos. 1, 2, 3 & 4 respectively as mentioned in the cause title of the application dated 23.06.2025.

Note changes in register.

Newly inserted decree holders are directed to file amended execution application within the next date fixed.

Record is now taken up for hearing of application dated 11.11.2025 filed by the third party resistor namely Lakshmi Kanta Shee under Section 151 of C.P.C. The contents of the petition is that during pendency of the Execution Proceeding, some of the judgment debtors died and applications have been filed for expunging the names of the said judgment debtors and an application has been filed for adding several persons as parties in the Execution Case alleging that the property has been sold and/or transferred in favour of Md. Akbar Ali, Md.Shabbir Ali, Javed Ali and Zafar Iqbal. During pendency of the aforesaid execution proceeding, the persons alleged to have purchased the property in question along with their men, agents and associates have created a reign of terror in the suit property which is under the occupation of the petitioner. Petitioner is carrying on business under the name and style of M/S. Paramananda Rubber Works (P) Ltd. As the Managing Director of the same from his occupation in the suit property. That in all these times, there was never any intervention or illegal activities on the part of the alleged erstwhile owners in the said property and the petitioner was smoothly carrying on his business

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therefrom. All on a sudden, since July 2025, Akbar Ali, Md. Shabbir Ali, Javed Ali and Zafar Iqbal started doing illegal acts to cause inconvenience to the petitioner in his occupation in the suit premises. When the petitioner requested the said aforesaid person that a matter is pending before the court of law and no intervention should be made in his possession in the said suit property unless Ld. Court passes orders but the aforesaid persons did not pay any heed to the same and forcibly removed the letter boxes of the petitioner from the ground floor. In spite of pendency of the matter before this ld. Court, said Akbar Ali, Md. Shabbir Ali, Javed Ali and Zafar Iqbal along with their men and associates are restricting and hampering the petitioner from carrying on his day to day business from the suit premises and further not allowing the petitioner to receive the materials and stock in trade for his business.

The newly inserted decree holders contested this application by filing written objection wherein they denied and disputed all facts stated therein. The decree holders further stated that the present recorded owners/landlords of premises no.12, Mohim Chandra Das Sarani have already filed an application on 23.06.2025 in the instant case praying, inter alia, for order for their substitution and/or addition as transferee decreeholders in place of the present decreeholders. The instant petition is based on misconception of the relevant proposition of law and the third party is guilty of misrepresentation, suppression and distortion of material facts. The purported documents, photographs filed by the petitioner are manufactured and illegal and invalid. Third party has no right to file the said application and he has no manner of right in respect of the decretal property. Third party is a stranger to the decretal property and he is illegally and forcibly claiming to be interested for one flat on

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the 1st floor, Western side of the premises no.12, Robert Street now known as 12, Mahim Chandra Das Sarani, Kolkata-700012 on false plea. The present owners of the said premises came to know that one A.R.Sinha, since deceased, was the original tenant in respect of said flat for residential purpose. The judgment debtors namely Subesh Ranjan Sinha, Swadesh Ranjan Sinha and Bhupesh Ranjan Sinha being the sons/heirs of the original tenant A. R. Sinha, since deceased, are not living in the said flat. It is denied and disputed that the petitioner is carrying on business under the name and style of M/S. Paramananda Rubber Works (P) Ltd. As the Managing Director of the same from his occupation in the suit property, as alleged. There was never any intervention or activities on the part of the alleged erstwhile owners in the said property and the petitioner was smoothly carrying on his business therefrom. The present owners of the said premises state that the petitioner has made false and concocted story for the purpose of the said application and the petitioner's alleged statements are without any substance. It is further submitted that the petitioner brought commercial goods and tried to store those highly inflammable business goods in the said flat with the help of his men and caused disturbance to the present owners of the said premises. Over the issue, Zafar Iqbal raised objection as the entire premises is residential building and not a commercial goods the petitioner/third party and his men have become vindictive and they are creating an atmosphere of terrorism and trying to make the residential building's environment hostile and dangerous. However, the third party could not be able to fulfill his evil motive. The said petitioner has been in occupation of the suit premises since long and carrying on business therefrom under the name and style of M/S. Paramananda Rubber Works (P) Ltd. And that under no

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circumstances the O.P. have authority to restrict the petitioner from receiving goods and materials from his distributors and also transporting the same to his customers. It is vehemently denied that as the Police authorities are not looking into the matter, without appropriate order from this Id. Court, appropriate directions are required to be passed by Id. Court upon the said O.Ps from restricting the petitioner is carrying on his business from the suit premises.

Admittedly applicant is a third party giving resistance to the execution of a decree passed by a Court of competent jurisdiction. Admittedly this third party has failed to establish his right to be in possession of the decretal premises in his Misc Case under Order 21 Rule 101 of C.P.C. being No. 73 of 2018 which was dismissed on contest by this Court vide order No. 24 dated 21.08.2019. He is a stranger not only to the decretal premises but also in the instant execution proceedings. He is aware of the decree passed by the Court. He cannot claim any right being in wrongful occupation of the decretal premises. The third party cannot claim any right on the basis of a wrong committed by him. Moreover he is a stranger to the instant proceedings. Thus this Court cannot render any protection to a wrongdoer who fails to comply with the direction of the Court and accordingly the petition filed by the petitioner is liable to be rejected.

Hence, it is

**ORDERED**

that the application dated 11.11.2025 filed by the third party resistor namely Lakshmi Kanta Shee under Section 151 of CPC is hereby rejected on contest but without costs.

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Record is now taken up for hearing of application dated 07.02.2020 filed by the erstwhile decree holders praying for expunging the name of deceased judgment debtor No.4 Subesh Ranjan Sinha from the cause title of the execution application. 3<sup>rd</sup> party/Resistor has filed written objection against the said petition.

At this stage the decree holders have changed. The petition was filed by the erstwhile decree holders and the same is not maintainable in the change of circumstances. Accordingly the petition dated 07.02.2020 is hereby disposed of at this stage but without costs.

The newly added decree holders are directed to take fresh steps with regard to the death of judgment debtor No.4 Subesh Ranjan Sinha.

Fix 05.03.2026 for filing Execution Application afresh and steps by the decreeholders.

DICTATED AND CORRECTED BY ME,

JUDGE

JUDGE

[5TH BENCH]