

MISC 82 of 2022

Order dated 17.06.2022

Today is fixed for argument in respect of the petition under order 21 rule 97 CPC .

Ld Advocate on behalf of Decree Holder argued at a length .

Heard Ld Advocate .Perused the record .

The case is taken up passing order.

Perused the record . On perusal of the record it reveals that the Original Suit was decreed on contest on dated 27.04.2022. This Court was pleased to direct the defendant to hand over the possession of the suit property to the decree holder within the period of 90 days from the date of Judgment .

Judgment Debtors failed to comply with the above mentioned order. Hence the petitioner filed the Misc Case no. 82/2022. Writ of possession was issued, and the same could not be executed on account of resistance by Judgment Debtor. Therefore, petitioner filed the instant petition under order 21 rule 97 CPC read with sec 151 CPC in Misc Case 82/2022.

Perused the application filed by the petitioner on 19.11.2022 , and all other available materials on record. It transpires from the record that, Opposite party appeared before this Court and filed written objection but ultimately the case was heard exparte against Opposite Party .

In support of the instant petition under order 21 rule 97 CPC , petitioner namely Chhanda Mallick and the Court bailiff Bapi Mitra deposed as P.W.1 and P.W.2 respectively.

On perusal of the case record, it transpires that the writ u/o 21 Rule 35 of the CPC was issued but Decree holder was resisted by the Judgment Debtors as per report of Court bailiff dated 16.09.2022.

Petitioner has successfully proved his case and it is evident that without police help writ can not be executed as per law. It is further pertinent to mention that I do not find any reason to disbelieve the unchallenged testimony of the witness . Hence, I am inclined in allowing the instant petition under order 21 rule 97 CPC .

Hence, it is hereby ordered, that the instant petition under the provision of under order 21 rule 97 CPC in Misc Case 82/2022 is hereby allowed.

To 07.07.2023 for step by Decree holder in Ejectment .Ex no. 36/2022.

D/C by me.

**Civil Judge (Jr. Div) 2nd Court
Sealdah.**

