

15.06.2026
Ct. No.6
Sl. No.15
skg

C.O. 700 of 2026

Pradip Khandewal
Vs.
Smt. Purabi Mahata & Ors.

Mr. Partha Pratim Roy, Adv.
Mr. Santanu Chatterjee, Adv.

...for the petitioners

Mr. Debasish Roy, Sr. Adv.,
Mr. Souvik Sarkar, Adv.

...for the opposite parties

1. This revisional application is directed an order dated February 12, 2026 passed by the learned Addl. District Judge, Fast Track Court, Dubrajpur, Birbhum in Misc. Appeal No. 18 of 2026 whereby the petitioner's application praying for stay of all further proceedings of Title Execution case no. 17 of 1976 has been rejected.
2. Title suit no. 111 of 1974 had been instituted by the opposite parties for eviction of the petitioner. Such suit was decreed on July 24, 1975. The said decree sustained challenge in first appeal as well as second appeal in this Court.
3. The said decree was ultimately put in execution by filing title execution case no. 17 of 1976. In the said execution case, the petitioner took out an application under Order 21 Rule 99 to 101 of the Code of Civil Procedure, 1908, claiming independent title in respect of a share of the suit property.

4. The said application was rejected by the learned Executing Court by an order dated January 19, 2026. The said order has been carried in appeal being Misc. Appeal no. 18 of 2026 before the learned Addl. District Judge, Fast Track Court, Dubrajpur, Birbhum.
5. In the said appeal the petitioner filed an application seeking stay of the execution case. By the time the application for stay of the execution case came to be heard the decree was already executed and the learned Executing Court had disposed of the Execution Case upon recording satisfaction of the decree.
6. In such view of the matter, the learned appellate Court rejected the petitioner's application for stay. Feeling aggrieved by the said order the petitioner has approached this Court by filing the present revisional application.
7. Mr. Partha Pratim Roy, learned Advocate appearing for the petitioner submits that the learned Appellate Court has failed to appreciate that the petitioner has claimed independent title in respect of a share of the suit property and as such if during pendency of the Miscellaneous Appeal third party rights and/or interests are created in respect of the suit property, the same would lead to multiplicity of proceedings.
8. It is further submitted that the learned Appellate Court ought to have passed appropriate orders restraining

such transfer during pendency of the Miscellaneous Appeal.

9. Mr. Roy, learned Senior Advocate appearing for the opposite parties submits that the order impugned calls for no interference. It is submitted that the only prayer that was made before the appellate Court was for stay of the execution case and such prayer had spent its force on the relevant day since by time it came to be considered the decree had already been executed.
10. It is further submitted that the right, title and interest of the decree holders-opposite parties in respect of the suit property has been duly established in the suit and in any case, the petitioner did not make any such prayer for restraint of transfer before the learned appellate Court.
11. Having heard the learned Advocate for the respective parties and having considered the material on record, this Court does not find any reason to interfere with the order impugned.
12. Indeed the application that was there before the learned Trial Court was one for stay of execution and it was in that light that the learned appellate Court had analysed and assessed the merits of petitioner's prayer. There is nothing that precludes the petitioner from approaching the appellate Court even now and seeking appropriate reliefs in accordance with law.

13. The petitioner shall be free to approach the learned appellate Court with an appropriate application in accordance with law, and it shall be open to the opposite party to take appropriate objection to it. It is made clear that this Court has not expressed any opinion on the merits of the petitioner's case as regards restraint order or any other order affecting transfer of the decretal properties.
14. The Appellate Court is requested to dispose of the Miscellaneous Appeal as expeditiously as possible without any unnecessary adjournment either of the parties.
15. With the aforesaid observation C.O. 700 of 2026 stands disposed of. There shall be no order as to costs.
16. Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Om Narayan Rai, J.)