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C.O. 1320 of 2026

Sri Biplab Kishore Chowdhury
Vs.
Smt. Amita Bachhawat

Mr. Saptansu Basu, Sr. Adv.
Mr. Ayan Banerjee
Ms. Debasree Dhamali
Ms. Riya Ghosh
Ms. Debolina Ghosh
..... for the petitioner

1. The revisional application has been filed challenging the order of rejection of stay of the execution proceedings by the learned court below on February 20, 2026 and again on April 2, 2026 which have been made in a proceeding under Section 47 of the Code of Civil Procedure, 1908 (hereinafter referred to as the "Code") challenging the decree of eviction passed by the learned court below on May 6, 2014.
2. The decree was passed *ex parte* and an application under Order IX Rule 13 of the Code is pending adjudication. Thus, there are two applications pending adjudication, both challenging the decreed of May 6, 2014. The first application is under Order IX Rule 13 of the Code challenging the *ex parte* decree and the second is under Section 47 of the Code on the ground that

the decree is a nullity in view of a subsequent development that the petitioner has become the owner of the premises which is evidenced by the record of rights disclosed by the petitioner at page no. 115 of the application.

3. The order of April 2, 2026, passed by the learned court below, does not take into account as there is no finding regarding the record of right which clearly records the petitioner to be a rayat. Learned court below has merely recorded the submission of the plaintiff/opposite party that the record of right in the name of the petitioner is “wrong, erroneous and without any basis”. There is no finding of the Court as to how, why or on what basis the record of right could be ignored by the learned court below.
4. Even while the applications under Section 47 and Order IX Rule 13 of the Code are pending adjudication, it would be contrary to law to dispossess the petitioner on the basis of that very *ex parte* decree which is under challenge.
5. The order of April 2, 2026 is stayed.
6. It is expected that the learned court below will expedite the hearing of the two applications before passing any order of execution of the decree in any manner whatsoever.

7. The petitioner is directed to serve notice on the opposite party.
8. List this matter on May 15, 2026, before the regular Bench subject to His Lordship's convenience.

(Reetobroto Kumar Mitra, J.)