

10.6.2026  
Ct. no. 6  
S/L. 4  
Samarpita

**IN THE HIGH COURT AT CALCUTTA**  
CIVIL REVISIONAL JURISDICTION  
(Appellate Side)

**C.O. 1773 of 2025**

**Sri Pradip Kumar Roy**  
**-Vs-**  
**Sri Dilip Kumar Roy**

Mr. Prasanta Kumar Pakrashi,  
Ms. Afrin Nahar Mondal

...for the petitioner.

Mr. Uddipan Banerjee,  
Mr. Subhrakanti Samanta

... for the Opposite Party

1. This revisional application assails an order dated May 5, 2025 passed by the learned Additional District Judge, Fast Track Court, Chandernagore, Hooghly, in Title Appeal No. 06 of 2023, whereby, an order of stay passed by the said Appellate Court on February 17, 2025, subject to deposit a sum of Rs. 12,000/- (Rupees Twelve Thousand) has been vacated.
2. The opposite party had instituted Title Suit No. 648 of 2017 for declaration and injunction against the petitioner. The said suit was decreed on contest by the learned Civil Judge (Senior Division), Chandernagore, Hooghly, on August 31, 2023.
3. The said decree has been challenged by the petitioner by filing Title Appeal No. 06 of 2023, before the learned Additional District Judge, Fast Track Court, Chandernagore, Hooghly.

4. In the said appeal, the petitioner filed an application praying for “*stay of the order and judgement and decree*” passed by the learned Trial Court on August 31, 2023. Such application was considered by the learned Appellate Court and allowed by an order dated February 17, 2025, thereby, staying the operation of the judgement and decree impugned in the appeal for a period of six months, subject to deposit of a sum of Rs. 12,000/- (Rupees Twelve Thousand) as security. The petitioner did not put in the security as directed by the order dated February 17, 2025 and as such the said order of stay was vacated by the impugned order dated May 5, 2025.
5. Feeling aggrieved thereby, the petitioner has approached this Court by way of this present revisional application.
6. Mr. Pakrashi, learned advocate appearing for the petitioner submits that, the learned Appellate Court committed a serious error in directing deposit of money for the purpose of grant of stay of operation of the judgement and decree. He further submits that the opposite party is interfering with the petitioner’s ingress and egress from the property which is the subject matter of the litigation.
7. It is next submitted that the petitioner has also filed a suit for partition against the opposite party which is pending.

8. Mr. Banerjee, learned advocate appearing for the opposite party submits that, the suit that had been filed by the opposite party was one for declaration and injunction and the same has been decreed. He fairly submits that while direction for deposit of security was uncalled for there was no reason to pass any order of stay as no proceeding for execution has been initiated. He submits that since the appeal has been pending since 2023 the same should be expedited.
9. Heard learned advocates appearing for the respective parties and considered the material on record.
10. It is evident that the decree dated August 31, 2023 is one for declaration of the right, title, interest and possession of the opposite party over the property in suit as well as, for permanent injunction against the petitioner. The decree is not for recovery of possession or for eviction. There is no decree for money.
11. In such view of the matter, the learned Appellate Court was not justified in directing payment of any sum towards security. However, since no execution has yet been levied, there was no occasion for staying the operation of the judgement and decree either, which in any case is a declaratory decree.
12. In such view of the matter the order dated May 5, 2025 impugned in the revisional application is set aside. The petitioner shall be at liberty to pray for appropriate order of injunction either before the

learned Appellate Court or before the learned Trial Court where the partition suit is pending, in accordance with law.

13. It is made clear that the aforesaid observation should not be taken to mean that the petitioner is entitled to such an order. It will be for the petitioner to prove the petitioner's case for grant of such an order. This Court has not formed any opinion on such issue and the learned Court before whom such application would be made (if at all made), shall be free to take a decision on it in accordance with law upon hearing both the parties.

14. In case, the decree is put in execution it will be open to the petitioner to pray for appropriate orders before the appropriate Court including stay of operation of the Judgement and decree. Since the appeal being Title Appeal No. 06 of 2023 has been pending and this Court is informed that the appeal is next scheduled for hearing on July 17, 2026, this Court requests the learned Appellate Court to proceed with the hearing of the appeal, so that the same can be concluded as expeditiously as the business of the learned Appellate Court would permit without granting any unnecessary adjournment to either of the parties.

15. With the aforesaid observation, **C.O. 1773 of 2025** stands disposed of. No costs.

16. Urgent photosat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

**(Om Narayan Rai, J.)**