

26.08.2025
Ct. No.4
Item No.152
(P.A.)

**SAT 254 of 2023
With
CAN 1 of 2024**

**M/s. Ananta Engineer Stores & Ors
Vs.
Sri Debiprasad Mal & Anr.**

Mr. Debjit Mukherjee
Mr. Kaustav Chatterjee
Ms. Priyanka Jana
...for the Appellants

Mr. Somnath Roy Chowdhury
Ms. Arpita Chowdhury
Ms. Soumita Shaw
...for the Respondents

The present appeal has come before this bench for admission on being assigned.

The appeal shall be heard on the following substantial question of law:

I. Whether the suit disposed by the Trial Court is barred by the provisions of Order II Rule 2 of the Code of Civil Procedure.

At the time of admission hearing the learned Counsel Mr. Somnath Roy Chowdhury representing the Respondents wanted to make submissions relying upon judgment of the Apex Court in the case of ***Mahadev Govind Gharge & Ors Vs. The Special Land Acquisition Officer, Upper Krishna Project, Jamkhandi,***

Karnataka reported in **(2011) 6 SCC 321**. As the matter is only for admission of the second appeal wherein the judgment relied upon is not applicable, so the prayer of the learned Advocate representing the Respondents has not been allowed at this juncture.

Let the Trial Court and the First Appellate Court Records be called for through special messenger at the cost of the appellant.

Such cost shall be paid within one week from date.

After arrival of the Records the office shall examine the same and if found complete, shall issue notice under Rule 12 of Chapter IX of the Appellate Side Rules upon the learned Advocate on record of the appellant.

The appellant shall prepare eight sets of informal paper books – printed, typed or cyclostyled, as the case may be, out of Court, within eight weeks from date and shall file the same in the Department upon serving a copy thereof upon the learned Advocate on record of the respondents.

All other formalities pertaining to preparation of paper books are dispensed with.

After the passing of the aforesaid order the learned Counsel representing the appellants

prays for hearing the application praying for stay of the execution proceeding being CAN 1 of 2024.

As the learned counsel representing the Respondents is also present so let the matter appear at 02.00 p.m. today.

(Madhuresh Prasad, J.)

(Supratim Bhattacharya, J.)

Later at 2.00 p.m.

CAN 1 of 2024

1. The learned counsel representing the appellants submits that the application being CAN 1 of 2024 be heard out.

2. Through the said application, the appellant has prayed for stay of all further proceedings of the Title Execution Case being No. 144 of 2023 pending before the learned Civil Judge (Jr. Divn.), 6th Court, Howrah.

3. The learned counsel representing the appellants submits that as the present appeal has been admitted and on 27th August, 2025 date is fixed for delivery of possession of the suit property as such he prays for stay of proceedings of the Title Execution.

4. The learned counsel representing the respondents per contra submits that he intends to file objection to the said application.

5. In such circumstance, as the present appeal has been admitted, so let the application be heard out before the learned Single Judge.

6. Let there be an interim order of stay in respect of the Title Execution Case being No. 144 of 2023 pending before the learned Civil Judge (Jr. Divn.), 6th Court, Howrah till 12th September, 2025, or till further orders, whichever is earlier.

8. In the meantime as submitted by the learned counsel representing the respondents it will be open to them to file an affidavit so as to enable adjudication and disposal of the application (CAN 1).

9. The parties will be at liberty to mention before the Hon'ble Single Bench having determination to hear the second appeal.

(Madhuresh Prasad, J.)

(Supratim Bhattacharya, J.)