

IN THE HIGH COURT AT CALCUTTA
[CIRCUIT BENCH AT PORT BLAIR]

CO/35 2026

Shri Purna Chandra Mondal

Vs

Shri Rabdeep Singh and Another

Mr. Arul Prasanth ... for the petitioner

Mrs. Anjili Nag, Sr. Adv.
Mr. Dev Kumar Bawali ... for the opposite party no. 1

July 09, 2026
[AKB]
Item No.19

This revisional application is directed against an order dated June 22, 2026 passed by the Learned Joint Civil Judge (Senior Division), South Andaman, Port Blair in Title Suit No. 128 of 2019 whereby the petitioner's evidence was closed and the suit itself was posted for arguments.

Mr. Arul Prasanth, learned Advocate appearing for the petitioner submits that the petitioner who is a defendant in a suit for partition has all along been vigilant and on a single default of the petitioner in being present before the Court at the time of call, the learned Trial Court has closed the petitioner's evidence and fixed the suit for argument.

Mrs. Anjili Nag, learned Senior Advocate appearing for the opposite party no. 1 (i.e. the plaintiff in the suit) submits that the defendant has been thoroughly remiss in his conduct in the proceedings before the learned Trial Court. She disputes that the present case was one of a single default on the part of the petitioner. It is further submitted that as many as four times,

costs have been imposed by the learned Trial Court on the defendant for adopting delaying tactics.

It is noticed from the order sheets annexed to this application that on the occasion previous to the one when the order impugned was passed (i.e. on April 7, 2026) the petitioner was represented and had expressed his willingness to adduce further evidence in the suit wherefor, the suit was fixed for the defendant's witness on June 22, 2026. On the next date although, the defendant could not be present at the time of call, it appears that later on the defendant appeared and put in the requisites for summoning witnesses.

Having regard to such factual position, this Court is of the considered view that the defendant ought not to have been penalized by a total closure of evidence merely because of not being able to be represented at the time of call once during the day.

Adduction of evidence and cross-examination form an important part of the fair trial procedure of the justice dispensation system. In such view of the matter, the order dated June 22, 2026 whereby the defendant's evidence has been closed, deserves interference.

Accordingly, the order dated June 22, 2026 whereby the defendant's evidence has been closed is set aside. The defendant will now be permitted to adduce evidence in accordance with law.

Since requisites for summoning witnesses have already been put in by the defendant, it will be for the learned Trial

Court to pass appropriate direction for issuance of summons in accordance with law.

It is clarified that upon the learned Trial Court fixing dates for the purpose adduction of evidence on the part of the petitioning defendant, the petitioner would conclude his evidence within a fortnight from the first date so fixed by the learned Trial Court, without seeking any unnecessary adjournment.

With the aforesaid observations, CO/35/2026 stands disposed of. There shall be no order as to costs.

Since the subject suit is one for partition, that has been pending since 2019, the learned Trial Court is requested to expedite the hearing of the suit and conclude the same as expeditiously as the business of the learned Court would permit without granting any unnecessary adjournment to either of the parties.

(Om Narayan Rai, J.)