

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

CO/51/2025

Shri Haripada Gain

Vs.

Shri Binoy Krishna Roy and Others

Mr. Gopala Binnu Kumar... for the petitioner

Mr. Sudarsan Biswas ... for the Opposite party nos.
2 to 9

February 23, 2026
[SR]
Item No.4

Petitioner assails Order No. 68 dated June 27, 2025 passed in Other Suit No. 27 of 2016.

By the impugned order, Learned Trial Judge, dismissed the suit on the ground that the petitioner/plaintiff was not taking any steps for the disposal of the suit.

Opposite parties no. 2 to 9 are represented.

It appears from the record that, the trial of the suit commenced. Evidence were recorded. After closure of the evidence of the parties, the suit was fixed for argument and delivery of judgment. Thereafter, petitioner/plaintiff filed an application under Section 151 of the Code of the Civil Procedure praying for recalling of the order dated February 14, 2025. Essentially the petitioner/plaintiff sought to examine four witnesses at the trial.

Suit is for specific performance to an agreement for sale relating to an immovable property.

While dealing with the application dated February 14, 2025, Learned Trial Judge, noted that, on an earlier occasion, an application under Section 151 of the Code of the Civil Procedure, 1908, plaintiff/petitioner was allowed to produce witness of the

plaintiff which the plaintiff did not produce. In such circumstances, learned Trial Judge inferred that, if the application dated February 14, 2025 was allowed, the same will only cause delay. Learned Trial Judge thereafter proceeded to dismiss the suit itself.

With the deepest of respect, the application dated February 14, 2025, was required to be considered and decided upon.

It appears from the application dated February 14, 2025 filed by the petitioner/plaintiff that, in a suit for specific performance, petitioner/plaintiff sought to produce four more witnesses at the trial. The names and particulars of the witnesses are at paragraph 10 of such application.

Learned Advocate appearing for the petitioner/plaintiff has submits that, the petitioner/plaintiff undertakes not to seek any adjournment on any date, till the disposal of the suit, and on any ground whatsoever including resolution of the Bar from producing any witness at the trial on the dates fixed.

Purely on that undertaking as noted in the previous paragraph, petitioner/plaintiff is allowed to produce the four witnesses named in paragraph 10 of the application dated February 14, 2025 at the trial.

It is made clear that the plaintiff/petitioner will not be entitled to any adjournment on any ground or on any date whatsoever at the trial.

Impugned Order No. 68 dated June 27, 2025 is set aside.

Other Suit No. 27 of 2016 is restored to its file and number.

CO/51/2025 is allowed without any order as to costs.

(Debangsu Basak, J.)