

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE

Present:

The Hon'ble Justice Ajay Kumar Gupta

C.O. No. 1600 of 2026

Sethia Organisation

Versus

Smt. Keka Sarkar & Ors.

For the Petitioner	:	Mr. Rishabh Karnani, Adv. Mr. Sandip Ghosh, Adv.
For the Opposite Party No. 1	:	Mr. Sounak Bhattacharjee Adv. Mr. Sounak Mondal, Adv. Ms. Bipasha Bhattacharyya, Adv.
Heard on	:	27.08.2026
Judgment on	:	08.09.2026
Uploaded on	:	08.09.2026

Ajay Kumar Gupta, J.:-

1. By filing this application under Article 227 of the Constitution of India, the applicant/petitioner has been challenging the impugned order No. 16 dated April 20, 2026, passed by the Learned Additional D.C.D.R.C., Rajarhat in DC/AB1/303/IA/26/2026 in connection

with Execution Application No. DC/AB1/303/EA/90/2023 (Sethia Organisation Vs. Keka Sarkar & Ors.) arising out of final Judgment dated October 31, 2023 passed in DC/AB1/303/CC/619/2022. By the impugned order, the Learned Commission rejected the application of Rajendra Kumar Jain, claiming to be a partner of Sethia Organisation/Judgment-debtor, seeking leave to file objections to the execution.

- 2.** It is the specific case of the Petitioner that the petitioner firm owns a property, measuring 3 Cottahs 15 Chittaks 36 square feet, situated at Patipukur Township of the Government being Plot No. 119, Block 'B', Police Station - Lake Town (then Dum Dum), Sub-Division- Barrackpore, District- North 24 Parganas. The said property was purchased on February 17, 1987 from Sri Sachindra Mohan Saha and Sri Dharendra Mohan Saha by Registered Deed of Conveyance recorded in Book No. I, Volume No. 12, pages from 319 to 330, being no. 609 of 1987) (hereinafter referred to as "the said property").
- 3.** In the first week of January, 2026, Mr. Rajendra Kumar Jain, a partner of the Petitioner firm, learnt from a neighbour that an officer from Burrabazar Police Station had visited his office premises and was enquiring about Sethia Organization, a proprietorship concern and its alleged partner, Raj Kumar Sethia. On enquiry through a representative, it emerged that an execution case was pending before

the Learned Addl. D.C.D.R.C. Rajarhat, wherein the Petitioner firm, described as a proprietorship of Raj Kumar Sethia, was arrayed as a party.

4. On engaging counsel, the Petitioner ascertained that Execution Application No. DC/AB1/303/EA/90/2023 had been filed by Opposite Party No. 1 and was pending. Certified/server copies of the orders in the execution case were obtained on 12th January, 2026.
5. The order disclosed that the execution arose from the final judgment dated 31st October, 2023 in Complaint Case No. DC/AB1/303/CC/619/2022, filed by Opposite Party No. 1 against "Sethia Organisation," Raj Kumar Sethia as its proprietor, and Opposite Party No. 2. The complaint sought a decree directing execution of a Deed of Conveyance in respect of Flat No. 5 on the 4th floor (1000 sq. ft. super built-up area, with a 200 sq. ft. garage) at the aforesaid Plot No. 119, together with proportionate land share and common-area rights ("the subject flat").
6. The Petitioner respectfully states that the subject flat stands on the said property, which is owned by the Petitioner partnership firm and not by any proprietorship concern. It is alleged that the Opposite Party No. I, well aware of the fact, deliberately, arrayed the proprietorship concern rather than the actual owner firm, thereby avoiding proper service and securing an ex parte decree without

notice to the Petitioner firm, allegedly by furnishing incorrect credentials of the true owner.

- 7.** It further transpired that the underlying claim rested on an Agreement for Sale dated 17th February, 1991, purportedly executed between Opposite Party No. 1 and Opposite Party No. 2 (Smt. Susma Saha); the Petitioner firm, as owner of the said property, was not a party to that agreement, though it was allegedly a necessary party to the specific-performance suit.
- 8.** Upon learning of the execution proceedings, the Petitioner instructed counsel, who appeared before the Learned Addl. D.C.D.R.C. on the returnable date of 12th February, 2026, and sought copies of the execution and complaint records to contest the execution's maintainability. By order dated 12th February, 2026, the Commission directed Opposite Party No. 1 to furnish the execution case papers to the Petitioner and fixed 20th April, 2026 for further hearing. Only the execution case papers were supplied pursuant to this order, not the complaint case record.
- 9.** The certified copies of the judgment dated 31st October, 2023 and the complaint case record were obtained by the Petitioner only on 7th April, 2026, upon perusal of which the Petitioner claims to have discovered the alleged fraud.

- 10.** On 20th April, 2026, the Learned Addl. D.C.D.R.C., Rajarhat took up the Petitioner's application for leave to file objections to the execution, as well as I.A. No. 26 of 2026 filed by Opposite Party No. 1 seeking execution of the Deed of Conveyance through the Commission's machinery. By the impugned order, the Commission dismissed the Petitioner's application on the ground that the Petitioner's credentials did not match those recorded in the judgment dated 31st October, 2023, and simultaneously allowed I.A. No. 26 of 2026, appointing the Registrar of the Commission as Executrix and directing filing of a draft Deed of Conveyance for verification within 15 days
- 11.** Aggrieved by the said impugned judgment and order dated April 20, 2026, the Petitioner has filed the instant revisional application.
- 12.** Learned counsel appearing on behalf of the petitioner firm submitted that no opportunity was provided to the petitioner to contest the execution case and that the application filed by the petitioner was rejected outright, although the suit property originally belongs to the petitioner firm and the petitioner was never made a party in the original complaint case.
- 13.** It was further submitted that on the same date the executing court appointed the registrar of the commission to execute the deed of conveyance in terms of the judgment in favour of the Decree holder and directed to file a draft copy of the deed of conveyance for

verification within 15 days. Such order is highly prejudicial to the petitioner; as such, the orders passed by the executing court are liable to be set aside.

- 14.** Learned counsel appearing on behalf of the Opposite Party Nos. 1, on the other hand, strenuously opposed the prayer of the petitioner and further submitted that the application filed by the petitioner was false and frivolous, only for frustrating the execution proceedings and only to drag it out to get fruit of the decree passed in favour of the Opposite Party No. 1/Decree holder. The application was filed in connivance with the Judgment Debtor. The original judgement was passed against the Sethia Organization; Rajkumar Sethia and Sushma Saha being the proprietor and developer. Therefore, the executing court rightly rejected the frivolous and misconceived application. Therefore, this application is liable to be dismissed.
- 15.** Having heard the learned counsels for the respective parties and having gone through the materials on record, this court finds that the petitioner had filed an application for seeking supply of the claim application as well as execution petition, so that the petitioner firm, claiming ownership of the suit property, can contest and file written objection. Such prayer was rejected by the executing court, observing therein that the judgment had been passed against Raj Kumar Setha

and Sushma Saha, being the proprietor and developer of Sethia Organization/Jdr.

16. Therefore, this court does not find any illegality and/or infirmity in rejecting the petitioner's application. The petitioner should have filed the appropriate application before the executing court for his actual grievances for stay of the execution case, but the Petitioner firm has not done so, claiming ownership of the suit property. This court does not find the judgment passed by the Learned Addl. D.C.D.R.C. Rajarhat in connection with a flat as mentioned in the schedule of the complaint. The schedule property claiming by the petitioner is not matching with the decree. Hence, the application has no merits
17. Accordingly, **C.O. No. 1600 of 2026** is, thus, **dismissed** without order as to costs. Connected applications, if any, are also, thus, disposed of.
18. It is made clear that dismissal of this instant application would not preclude the petitioner from filing an appropriate application in accordance with law before the appropriate forum for its grievance, if so advised.
19. Let a copy of this Judgment be sent to the Learned Judge, Addl. D.C.D.R.C. Rajarhat for information.
20. Interim order, if any, stands vacated.

- 21.** All parties will act on the server copies of this Judgment duly downloaded from the official *website* of this Hon'ble High Court.
- 22.** Urgent photostat certified copy of this Judgment, if applied for, is to be given as expeditiously to the parties on compliance of all legal and necessary formalities.

(Ajay Kumar Gupta, J.)

(P.A.)