

**IN THE HIGH COURT AT CALCUTTA  
CIVIL APPELLATE JURISDICTION**

**SMA 4 of 2019**

**Prativa Srivastava**

**Vs.**

**Krishna Kinkar Ray & Ors.**

**Mr. Kasinath De  
Mr. Sandip Kumar De  
Mr. A. Sarkar**

**.... For the Applicant/Respondents.**

**Re: CAN 3 of 2022**

This is an application by the respondents.

They alleged breach of the order of this bench dated 15<sup>th</sup> March, 2019 read with the order dated 22<sup>nd</sup> April, 2019 by the appellant.

The respondents say that from May, 2021 the appellant is not paying any occupation charges and that for breach of this condition the respondents should be allowed to proceed with the execution of the decree in question.

We find from our orders dated 15<sup>th</sup> March, 2019 and 22<sup>nd</sup> April, 2019 that upon observance of the above conditions by the appellant, the respondents had given an undertaking to this court not to proceed further with the execution case without our leave or without orders of a competent court.

S.D.

An affidavit of service is on record.

None appears for the appellant.

Mr. Kasinath Dey, learned advocate for the applicants/respondents submits that according to the postal endorsement the building where the appellants reside was found to be locked by the postal authority.

The appeal and the stay application were disposed of by the said orders of this court.

In those circumstances, we allow the respondents to withdraw the said undertaking given to this court. Furthermore, we grant leave to the respondents to approach the learned executing court below with an application complaining of the above default. On such application being made the said court would be free to adjudge the default and if the appellant is found to be in breach of our orders direct execution of the subject decree.

This application CAN 3 of 2022 is accordingly disposed of.

**(I.P. Mukerji, J.)**

**(Ajoy Kumar Mukherjee, J.)**

