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SK
Ct. No. 18
09.04.2021

**C.O. No. 783 of 2021
(Via Video Conference)**

**Smt. Uma Das alias Usha Das & Ors.
Vs.
Pradip Kumar Dawn & Ors.**

Mr. Asit Kr. Bhattacharya,
Mr. Ranjan Ghosh ... For the petitioners.

Mr. Kushal Chatterjee,
Mr. Debabrata Ray ... For the opposite parties.

The petitioners have suffered a decree of eviction in Ejectment Suit No. 83 of 2011 passed by the 3rd Court of learned Civil Judge, (Junior Division), at Sealdah.

The petitioner aggrieved by the said decree preferred the connected Title Appeal No. 32 of 2018.

The appeal Court below by the order impugned being Order No. 12 dated February 05, 2021 has fixed the occupation charges @ Rs. 2,000/- per month as a condition for grant of stay of the operation of the decree under appeal.

Mr. Bhattacharya, learned counsel appearing on behalf of the petitioners submits that the rate of occupation charges so fixed is disproportionate with the area and the location of the suit room.

Mr. Chatterjee, learned advocate appearing on behalf of the decree-holders/opposite parties on the other hand submits that in respect of some other rooms of the suit premises such occupation charges has been fixed at a higher rate.

Be that as it may, the suit room is situated within the city of Kolkata the appeal Court below in exercise of his discretion has fixed the occupation charges at the said rate.

This Court in exercise of the jurisdiction under Article 227 of the Constitution of India is not inclined to interfere with the exercise of such discretion by the appeal Court below in fixing the occupation charges at the said rate.

However, the petitioners are directed to liquidate the arrear occupation charges by 10 instalments instead of 6 instalments as directed by the appeal Court below.

First of such instalments along with the current occupation charges is required to be paid within May 07, 2021 and thereafter current occupation charges and instalments thereof are required to be paid within 7th of each succeeding month.

The order impugned is modified to the extent indicated above.

C.O. 783 of 2021 is disposed of with the above terms without any order as to costs.

The appeal Court is requested to expedite the disposal of the appeal.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)