

(33)
15.11.2021
(p.jana)

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
(Via Video Conference)
CO No. 1868 of 2021

Smt. Bijali Kundu & ors.
-versus-
Sanjib Pramanick

Mr. Indranath Mukherjee,
... for the petitioners.

Mr. Jahar Chakraborty,
Ms. Sabita Mukherjee Roy Chowdhury,
... for the opposite party.

The petitioners have suffered a decree of eviction and being aggrieved by the said decree, have preferred the connected Title Appeal No. 43 of 2018 pending before the learned Judge, Bench-IV, City Civil Court at Calcutta.

The appeal Court below by the order impugned being order no. 39 dated August 20, 2021 has allowed an application for amendment of the plaint filed by the plaintiff/respondent, the opposite party herein, but dismissed the application filed by the petitioners praying deposit of arrear occupation charges by installments.

Mr. Indranath Mukherjee, learned advocate appearing on behalf of the petitioners submits that order allowing amendment of plaint is not sustainable since no opportunity has been given to the petitioners to file additional written statement against the amended plaint.

He further submits that the prayer of the petitioners to liquidate the arrear occupation charges by installments was turned down by the appeal Court below on the ground that the order for payment of occupation charges was affirmed by this

Court in revision, according to him the appeal Court below should have allowed the said prayer of the petitioners since the default in payment of the occupation charges occurred due to the outbreak of Covid-19 pandemic.

The plaint since has been allowed to be amended, the petitioners are entitled to file additional written statement. The petitioners are permitted to file such written statement within two weeks from date.

The occupation charges in respect of the suit property was fixed by the appeal Court below vide order No. 07 dated February 13, 2019 @ Rs. 20,000/- (Rupees Twenty Thousand) per month. The said order was affirmed in revision.

Considering the situation prevailed during the Covid-19 pandemic, the petitioners are permitted to liquidate the arrear occupation charges accrued till October, 2021 by four equal monthly installments along with the current occupation charges in the manner indicated by the appeal Court below in the order dated February 13, 2019.

First of such instalments is required to be paid/deposited along with the current occupational charges within 10th of December, 2021.

The order of stay passed by the appeal Court below shall continue unconditionally till the end of the month of December, 2021 and in the event the payment of occupational charges and arrears thereof are made in terms of the above direction, the said order of stay shall continue till the disposal of the said appeal.

In the event of any default in payment of the said occupational charges in terms of this order, the said order of

stay shall stand vacated automatically and the decree shall be executable at once.

C.O. 1868 of 2021 is thus disposed of with the above terms without any order as to costs.

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

(Biswajit Basu, J.)