

(19)
14.01.2021
(p.jana)

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

(Via Video Conference)

CO 1498 of 2020

**Gautam Halder
-versus-
Ratan Chakraborty**

Mr. Sourav Sen,
Ms. Sayani Bhattacharya, ... for the petitioner.

Mr. Samrat Chowdhury,
Mr. Anit Dey, ... for the opposite party.

The revisional application under Article 227 of the Constitution of India is directed against the order no. 18 dated February 07, 2020 passed by the learned Additional District Judge, Fast Track Court-IV, Barrackpore, District : 24 Parganas (North) in Title Appeal No. 27 of 2017.

The opposite party having suffered the decree of eviction in the suit filed by the petitioner has preferred the connected appeal. The petitioner is the respondent of the said appeal.

The Appeal Court below by the order impugned has stayed the operation of the decree during the pendency of the appeal on condition of the payment of Rs. 700/- per month on account of occupation charges of the suit shop room from the date of decree.

The grievance of the petitioner is that the suit property is a medicine shop and is situated at a prime location of Naihati as such the occupation charges so fixed does not commensurate with the market rate.

On perusal of the record it appears that the suit shop room is a medicine shop and is situated at Baroda Bridge Road in vicinity of Naihati Hospital.

Considering such location of the suit property it appears that the occupation charges fixed by the Appeal Court below is at the lower side.

The said occupation charge is, therefore, enhanced to Rs. 4,000/- per month payable from the date of decree. The arrear occupation charge is to be liquidated in 12 (twelve) equal monthly instalments as directed by the order impugned.

The opposite party shall pay to the petitioner the current occupation charge within 7th day of each succeeding month along with the arrear occupation charges and first of such payment shall be made within 7th of February, 2021. The opposite party thereafter shall keep on paying the same to the petitioner within 7th of each succeeding month for which it falls due.

There shall be an unconditional stay of operation of the decree under appeal till the end of the month of January, 2021.

In the event of any default in payment as aforesaid, the stay of operation of the decree hereby granted shall stand automatically vacated and the decree shall be executable at once.

The opposite party shall make all the aforesaid payments to the bank account of the petitioner and to facilitate such payments, Mr. Sen learned advocate for the petitioner shall supply the details of his client's bank account to Mr. Chowdhury learned advocate for the opposite party.

CO 1498 of 2020 is disposed of with the above terms.

No 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.)