

17.06.2022
Item No.5
Ct. No.7
CHC
(disposed of)

C.O. 1371 of 2021

Smt. Madhumita Sanyal & ors.
Vs.
Sri Dwarka Nath Pyne & anr.

Mr. Partha Pratim Roy,
Mr. Debdutta Raha
...for the petitioners

Mr. Ajoy Krishna Chatterjee, Ld. Senior Advocate
Mrs. Shohini Chakraborty,
Ms. Prajaaini Das
...for the opposite parties

The subject-matter of challenge in this revisional application is against the order dated 7th April, 2021, passed by learned District Judge, South 24 Parganas, at Alipore, in Title Appeal No.47 of 2020, granting occupational charges @ Rs.10,000/- (Rupees Ten Thousand) per month till the disposal of the appeal.

Mr. Roy, learned advocate appearing for the petitioners/respondents/decreed-holders submits that the quantum of occupational charges has been granted has been erroneously assessed.

It is contended by Mr. Roy that necessary parameters for deciding the quantum of occupational

charges have not been gone into by the court below, and as a result of which, there has been improper decision reached with regard to the extent and quantum of occupational charges being granted in this case.

Mr. Chatterjee, learned Senior Advocate appearing for the opposite parties furnishes affidavit-in-opposition supporting the order of the court below.

Mr. Chatterjee submits that the rate of rent for the suit premises was Rs.680/- per month, and the court below, upon consideration of the parameters, required to be gone into, has appropriately assessed quantum of occupational charges. More so, the condition of the suit property is not good, and it has turned out to be worn.

Mr. Roy has already furnished reply disputing with the averments contained in the opposition.

Incidentally, it is submitted by Mr. Roy that though the petitioners/respondents/decreed-holders have already been favoured with eviction decree, but the fruits of litigation to enjoy are getting delayed, because of the pendency of this appeal. It is thus proposed by Mr. Roy that the appeal may be expedited in order to put an end to the existing litigation, which is not opposed by learned Senior Advocate, Mr. Chatterjee.

Having considered the submission of both sides, it appears that the quantum of occupational charges granted by the court below is under challenge in this revisional application. The suit property is situated at S.P. Mukherjee road measuring an area 1400 sq.ft. (super built).

The subject property is no doubt located in a posh area of Kolkata. Without going into the details, a little bit enhancement of quantum of occupational charges would, however, ensure a balance between the two.

In that view of the matter, the revisional application is thus disposed of directing the opposite parties to pay Rs.15,000/- (Rupees Fifteen Thousand) per month as occupational charges with effect from this month till the disposal of the appeal. The impugned order, is, thus modified to the extent mentioned hereinabove.

The pending appeal may be disposed of by the court below within six (06) months from the date of this order, providing sufficient opportunity of hearing to either of the parties to this case, but without granting any unnecessary adjournment, unless it is extremely unavoidable.

With this observation/direction, the revisional application stands disposed of.

Urgent certified photostat copy of this order, if applied for, be given to the parties as expeditiously as possible on compliance of all necessary formalities.

(Subhasis Dasgupta, J.)