

(02)
15.07.2022
(p.jana)

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION

CO No. 1689 of 2022

Kishan Lal Agarwal
-versus-
HRG TRADING PRIVATE LIMITED

Mr. Rajarshi Dutt,
Mr. VVV Sastry,
Mr. Tridib Bose,
Mr. Sourav Roy
... for the petitioner/plaintiff/decree holder.

Mr. Kushal Chatterjee,
Mr. Abir Lal Chakravorti,
... for the opposite party/respondent/
judgement debtor.

Affidavit of service filed on behalf of the
petitioner be kept with the record.

The opposite party has suffered an ex-parte
decree of eviction passed in a suit being Title Suit No.
686 of 2018.

An application for setting aside the said ex-
parte decree being Misc. Case No. 54 of 2021 is
pending before the 2nd Court of learned Civil Judge
(Senior Division), Barasat, District-24 Parganas (North).

In the said misc. case, the learned Trial Judge
by the order dated September 30, 2021 has stayed the
further proceedings of the Execution Case being Title
Execution Case No. 2 of 2019 levied to execute the said
ex parte decree of eviction and by the order dated May
21, 2022 has disposed of the application filed by the
decree-holder for payment of the occupational charges
by directing the judgment-debtor to pay the said
charges at the rate of contractual rent i.e. **Rs. 33,000/-**
per month.

The decree-holder in the present application under Article 227 of the Constitution of India is challenging both the aforesaid orders.

The grievance of the decree-holder is that the amount of Rs. 33,000/- per month is disproportionate with the current market rate of rent prevailing in the area where the suit property is situated.

The suit property since was let out in the year 2013 for three years at the rate of rent of Rs. 33,000/- per month, this Court though on a conservative assessment, fixes it at the rate of Rs. 50,000/- per month payable from the date of said ex-parte decree, i.e. January 24, 2019.

Mr. Rajarshi Dutta, learned advocate for the decree-holder submits that his client since is in dire need of money for his treatment, he may be allowed to withdraw a portion of the arrear occupational charges calculated at the rate of Rs. 33,000 per month, which is to the tune of Rs. 13.86 lakh (Thirteen lakhs and eighty six thousand rupees only) and also the current occupational charges at the said rate.

Mr. Kushal Chatterjee, learned counsel for the judgment-debtor does not raise any serious objection to the said prayer of Mr. Dutta.

The arrear occupational charges calculated for the period from February 2019 to July 2022 comes to Rs. 21 lakhs (Twenty one lakhs rupees only) out of which the judgment-debtor is required to remit the said sum of Rs. 13.86 lakhs to the bank account of the decree-holder by three monthly installments of Rs. 5 lakhs, Rs. 4.86 lakhs and Rs. 4 lakhs within the month of July, 2022, August, 2022 and September, 2022

respectively and also to remit a sum of Rs. 33,000/- per month, being a part of current occupational charges of Rs. 50,000/- to the said bank account of the decree-holder within the 7th of each succeeding month for which it falls due.

The learned advocate on record of both the parties namely, **Mr. Sourav Roy** and **Mr. Abir Lal Chakravorti** shall open a joint bank account with any Nationalized Bank, wherein the judgment-debtor shall deposit the rest of the said arrear occupational charges, within August, 2022 and shall also deposit the rest part of the current occupational charges i.e. Rs. 17,000/- per month in the said account, within the 7th of each succeeding month for which it falls due.

There shall be an unconditional stay of the **Execution Case No. 2 of 2019** pending before the 2nd Court of learned Civil Judge (Senior Division), Barasat, District- 24 Parganas (North) till the end of the month of September, 2022 and in the event the aforesaid payments/deposits are made within the stipulated time, the said stay shall continue till the disposal of the Misc. Case No. 54 of 2021.

In the event of any default in compliance of any part of this order, the said stay shall be automatically vacated without any reference to this Court and the decree would be executable at once.

The learned Trial Judge is requested to expedite the disposal of the misc. case and in doing so shall not grant any unnecessary adjournment to either of the parties.

C.O. 1689 of 2022 is **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.)