

28.11.2022
Item No.16
Ct. No.7
CHC
(disposed of)

C.O.3001 of 2022

**Asit Kumar Paul & anr.
Vs.
Savitri Devi Goel & ors.**

Mr. Megnad Dutta,
Ms. Sormi Dutta

...for the petitioners

Mr. Souradipta Banerjee,
Ms. Fatima Hasan

...for the opposite parties

Subject-matter of challenge in this case is against the alleged inappropriate assessment of quantum of occupational charges granted by the court below in appeal.

Mr. Dutta, learned advocate appearing for the petitioners, while assailing the impugned order dated 15th September, 2022, passed in Title Appeal No.31 of 2019 submits that the quantum of occupational charges at the rate of Rs.8,000/- (Rupees Eight Thousand only) per month has been inappropriately assessed without taking into account the rate of rent prevalent in the adjacent locality of the suit. More so,, the occupational charges has been granted from the date of the order, which as per settled proposition of law, should be made effective from the date of the decree.

Mr. Souradipta Banerjee, learned advocate appearing for the opposite parties disputing with the submission of Mr. Dutta replies that appeal is ready for hearing, and the appellant has already concluded his argument, and the appeal had to be adjourned for the adjournment proposed by the petitioners on successive dates scheduled by the court below.

It is further submitted by the opposite parties that the Presiding Officer now hearing the appeal is about to retire, and further the appeal is heard out in an expeditious manner. The entire dispute pertaining to the occupational charges may be streamlined with the decision of appeal.

From the order dated 3rd November, 2022, 4th November, 2022 and 19th November, 2022, (the copy of which is produced by the opposite parties), it appears that the appellant already concluded his submission in the appeal. Subsequently, the matter was adjourned.

Ordinarily, the quantum of occupational charges, if granted, would take back from the date of the decree, granted by the trial court, unless there are reasons contrary to that effect, established by the other side.

When the appeal is at the final hearing stage, this Court does not want to interfere with the issue pertaining to the occupational charges, and shares the same view as expressed by the learned advocate for the

opposite parties. It is thus left to be decided by the court below.

Petitioners are given liberty to agitate the issue at the time of final hearing of this appeal, and if such point is raised that shall be resolved in accordance with law, providing sufficient opportunity of hearing to both the parties.

The appeal may be disposed of expeditiously as possible, preferably before the end of April, 2023.

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

Parties are directed to make communication of this order to the court below.

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.)