

26.06.2023
Sl. No.14 & 28(DL)
srm

C.O. No. 1677 of 2022
Swpan Kumar Das
Versus
Shipra Koley & Anr.

With

C.O. No.1548 of 2023
Swapan Kumar Das
Versus
Shipra Koley & Anr.

Mr. Sanjit Kumar Ghosh

...for the Petitioner.

Mr. Kajol Ray

...for the Opposite Parties.

C.O. No.1677 of 2022 has been filed challenging an order dated June 2, 2022 passed by the learned Civil Judge (Senior Division), Chandernagore, Hooghly, in Title Appeal No.26 of 2019.

The petitioner is aggrieved by the direction of the learned court below to deposit Rs.3,000/- per month as occupational charges with effect from June 14, 2019 as a precondition, for stay of the execution case. The petitioner was asked to deposit the arrear amount commencing from June 14, 2019 till the passing of the order dated June 2, 2022, in seven equal monthly instalments and the current occupational charges @ Rs.3,000/- per month. On such condition being

fulfilled, it was directed that the execution proceeding shall be stayed till disposal of the appeal.

By a subsequent order dated March 23, 2023, the learned Civil Judge (Senior Division), Chandernagore, Hooghly, did not extend the stay in the execution case on the ground that the occupational charges, as directed by the learned court below, had not been paid. Such order is also being challenged in C.O. No.1548 of 2023.

As the issues involved in both the applications are similar and arise out of similar orders relating to payment and subsequent non-payment of occupational charges, the matters are taken up together.

Having perused the order impugned dated June 2, 2022, this Court is of the view that amount of Rs.3,000/- per month is excessive and such amount has not been fixed, based on any evidence. Neither has the opposite party, who claims Rs.10,000/- per month as occupational charges, produced any evidence in the form of rent receipts or the market rent payable in respect of the shop rooms adjacent to the place where the petitioner is a tenant in the Diara Station Bazar, nor has the learned court below relied on any such document. It appears that the amount was fixed randomly and the learned

court below did not discuss the basis or foundation for having passed such direction.

By the subsequent order dated March 23, 2023, the learned court below refused to stay the execution, for non-compliance of the order dated June 2, 2022.

Mr. Ray, learned Advocate appearing for the opposite parties/landlords submits that the shops at Diara Station Bazar fetch a high value of rent. The business is vibrant and as such occupational charges @ Rs.3,000/- per month is reasonable.

Under such circumstances, both the revisional applications are disposed of with a direction upon the petitioner to pay Rs.2,000/- per month as occupational charges which this Court finds reasonable. Considering the area of the shop room, the location at the Diara Station Bazar and the nature of business, such amount is fixed. Such amount shall be paid month by month every month, beginning from July, 2023. Payment shall be made within 7th of every calendar month.

Along with the occupational charges for the month of July, 2023, the petitioner will pay Rs.20,000/- towards arrears. The remaining arrears shall be paid in eight equal monthly instalments along with the occupational charges from August, 2023. Fraction, if any, be added with the last instalment.

Failure to pay the instalments and/or occupational charges as directed above, the stay shall stand automatically vacated and the learned court below shall proceed with the execution case.

Both the revisional applications are, thus, disposed of.

There will be, however, no order as to costs.

Parties are to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)