

19.12.2023  
Sl. No.19(DL)  
srm

**C.O. No. 1780 of 2023**  
**Smt. Jamuna Kundu**  
**Versus**  
**Sri Bimal Pandey & Anr.**

Ms. Manali Biswas

...for the Petitioner.

The petitioner is aggrieved by an order dated April 10, 2023 passed by the learned Additional District Judge, Fast Track, 1<sup>st</sup> Court, Sealdah, in Title Appeal No.36 of 2022. The title appeal arose out of Title Suit No.20 of 2016.

By the order impugned, the learned lower appellate court fixed occupational charges at Rs.1800/- per month, to be paid on and from October 29, 2022 till March, 2023, as arrears, within two months and thereafter month by month within 7<sup>th</sup> of each succeeding month. On such condition, Title Execution Case No.2 of 2023 was to remain stayed.

The petitioner/plaintiff contends that the amount is insufficient and well below the market value.

However, there does not appear to be any document which was placed before the learned court in support of such contention.

The learned lower appellate court, upon taking into account the rival contentions of the parties, was of the opinion that two tile shed rooms with two varandahs and common bath and privy in the locality would not fetch more than Rs.1800/- per month, as occupational charges. It has also been held by the learned lower appellate court that the parties had agreed that the rooms had tile shed and those were not big in size.

Under such circumstances, there is no scope for any interference with the order impugned. Only because the property is situated at Entally, would not be a ground for payment of occupational charges of Rs.10,000/- per month. The nature of the property, the size of the property and the condition of the property are relevant considerations for determination of the occupational charges. In this case, the parties have admitted that the size of the rooms are rather small. The property has tile-shed and the user of the bath and privy are common. The occupant does have access to any private bath and privy, but uses the same in common with other occupants in the premises.

Thus, the Court does not find any illegality in the order impugned. The order impugned is well reasoned.

Accordingly, the revisional application is dismissed.

There shall be no order as to costs.

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

**(Shampa Sarkar, J.)**