

Item No. 9
28.07.2023
Court. No. 19
GB

C.O. 2037 of 2023

Soumya Bera
Vs.
Substituted heirs of Ashis Kumar Pal (Deceased)
Bharti Pal & Ors.

Mr. Souma Subhra Ray

...for the Petitioner.

This revisional application has been filed challenging an order dated May 11, 2023 passed by the learned Additional District Judge, 2nd Court at Serampore, Hooghly in Title Appeal No.31 of 2022.

By the order impugned, the learned lower appellate court allowed the prayer for stay of operation of the judgment and decree dated March 30, 2022 passed in Title Suit No.185 of 2013 subject to payment of Rs.5,000/- per month along with the contractual rent, as the occupational charges. The arrear occupational charges at the same rate was directed to be paid within two months from the date of the order.

This Court finds that the learned lower appellate court did not mention the basis of fixing the occupational charges at Rs.5,000/- per month. The plaint discloses the dilapidated condition of the shop room, which measures around 100sq. ft. The Commissioner's report elaborately indicates the damaged condition of the shop room. The fact that the shop room has a tile shed and the door is broken, is also evident. It further shows that there are no windows in the said shop room. Moreover, there is no document on record which

would indicate the current market rent, the shop room would fetch.

Under such circumstances, the order impugned requires modification. Considering the equity, this Court directs that a total amount of Rs.2,000/- per month as occupational charges shall be paid. The same shall be paid month by month, every month within 15th of every succeeding month. The arrear from the date of passing of the decree, that is, March 30, 2022 till June 2023 shall be liquidated in three equal monthly instalments along with the amount as directed hereinabove. The occupational charge for July 2023 shall be paid within August 15, 2023 and thereafter, as directed by this court.

The learned lower appellate court is directed to dispose of the appeal within a period of six months from the date of communication of this order.

Accordingly, the revisional application is disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties on priority basis.

(Shampa Sarkar, J.)