

05.12.2023
Sl. No.2(DL)
srm

C.O. No. 2922 of 2022
Avijit Podder & Ors.
Versus
Akhil Kumar Goswami

Mr. Tarak Nath Halder
...for the Petitioners.

Mr. Kaushik Dey,
Mr. S. Mishra
...for the Opposite Party.

The only issue to be decided in this revisional application is whether the learned Civil Judge (Junior Division) at Bidhannagar, District-North 24-Parganas erred in not allowing the occupational charges of Rs.5,000/- per month, in favour of the decree-holders, from the date of passing of the decree.

The Court is of the view that the law has been well settled that the judgment debtor, who continues to be in possession of a suit property, after having suffered a decree of eviction, is liable to pay the occupational charges from the date of the decree. The amount of Rs.5,000/- does not appear to be irrational or unreasonable in the facts of the case.

Under such circumstances, the order dated August 6, 2022 passed in Misc. Case No.3 of 2022 by the learned Civil

Judge (Junior Division) at Bidhannagar, District-North 24-Parganas is modified to the extent that the judgment debtor/opposite party shall deposit the occupational charges of Rs.5,000/- in the learned executing court on and from March 17, 2015 till July, 2022, towards arrears. The current monthly occupational charges shall be deposited, as directed by the court at the same rate. The arrears shall be deposited in five equal monthly instalments. Fraction, if any, shall be added to the last instalment. First of such instalment shall be deposited along with the occupational charges for the month of December, 2023, which shall be deposited within 7th of January, 2024 and the next succeeding instalment shall also be deposited in the same manner with the occupational charges for next month, within seventh of the succeeding month, till the same is liquidated in five instalments.

Subject to payment of the above amount, as directed by the court, the execution proceeding shall remain stayed.

The contention of Mr. Dey, learned Advocate for the opposite party that his client was not liable to pay the occupational charges as he had suffered an *ex parte* decree, which was obtained by the plaintiff, upon suppression of a development agreement, is not accepted by this Court. Whether the opposite party was supposed to get a portion in

the new construction or not, shall be decided on the basis of the averments in the application under Order IX Rule 13 of the Code of Civil Procedure.

The revisional application is, thus, disposed of.

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.)