

10.10.2023
Item No.24
gd/ssd

CO 3167 OF 2023
MD. NASIR AHMED
VS
MUNSI MD. ALI AKBAR

Mr. Abhijit Roy,
Md. Salahuddin
..for the Petitioner.

Mr. Krishna Das Poddar
..for the O.P.

The order dated 25th August, 2023 passed by the learned Chief Judge, City Civil Court at Calcutta in Title Appeal No.55 of 2023 is under challenge at the instance of the defendant in a suit for eviction under the provisions of West Bengal Premises Tenancy Act, 1997. The eviction suit was decreed on April 19, 2023.

The petitioner preferred an appeal being Title Appeal No.55 of 2023. In connection with the said title appeal, the petitioner filed an application for stay of operation of the judgment and decree passed by the learned Trial Judge.

The learned court of appeal below, by the order impugned, while passing an order of stay of operation of the judgment and decree passed by the learned trial judge and directed the appellant to pay occupation charge at the rate of Rs.30,000/- per

month with effect from the date of the passing of the decree by the learned trial judge.

Mr. Roy, learned Advocate appearing for the petitioner submits that the occupation charge fixed by the learned Court of Appeal below is without any basis. He further submits that the same is an exorbitant one.

The learned Advocate appearing for the O.P. submits that the petitioner is exploiting the decretal property for commercial purpose and, therefore, the occupation charge fixed by the learned Court of Appeal below is perfectly justified.

It appears from the materials on record that the learned Court of Appeal below directed a joint inspection to be conducted by the learned Advocates of the respective parties.

After going through the materials on record, this court finds that the learned Court of Appeal below noted that in the joint inspection report submitted by the learned Advocates of the respective parties it was found that the appellant/petitioner herein is exploiting the suit property for commercial purpose. It was further recorded in the said report that the appellant/petitioner herein has constructed a mezzanine floor.

In view thereof, this court is of the considered view that the occupation charges of Rs.30,000/-per

month fixed by the learned Court of Appeal below is perfectly justified.

Accordingly, CO 3167 of 2023 stands disposed of without, however, any order as to costs.

In the event the petitioner complies with the direction passed by the learned Court of Appeal below with regard to the payment of occupation charges, the learned Court of Appeal below shall dispose of the appeal as expeditiously as possible but preferably within a period of six weeks from the date of compliance of the direction with regard to the payment of occupation charges without granting any unnecessary adjournments to either of the parties.

Urgent certified copy of this order, if applied for, be given to the learned advocates for the parties on usual formalities.

(HIRANMAY BHATTACHARYYA, J.)