

10.06.2024
(D/L-32)
Ct.-19
(Susanta)

**IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION**

C.O. 193 of 2024
Smt. Maya Patra & Ors.
-Vs-
Sri Shyamal Das

Mr. Anshunath Chakraborty,
Mr. Gourab Mukhopadhyay,
Mr. Bishal Gupta,

... For the Petitioners.

Mr. Sibasis Ghosh,

.... For the Opposite Party.

Affidavit-of-service filed on behalf of the petitioner be kept with the record.

The opposite party has suffered a decree of eviction and has challenged the same in the connected Title Appeal being Title Appeal No. 17 of 2022 pending before learned Additional District Judge, Fast Track 4th Court, Barasat, District 24-Pargansa (North).

The Appeal Court below has granted unconditional order of stay of operation of the said decree of eviction.

The plaintiffs/petitioners by an application prayed for fixation of occupational charges as the condition for grant of such stay.

The Appeal Court below by the order impugned being Order No. 18 dated September 14, 2023 has dismissed the said application for the delay in filing of it.

To grant the relief of stay of the decree of eviction, the judgment-debtor must be put into terms, delay is not a relevant factor in this regard, the order impugned, therefore is not sustainable and is accordingly set aside.

Considering the location and condition of the suit property as well as the area comprised therein, the

occupational charges is fixed at the rate of **Rs. 1000/- per month** payable from the date of decree.

The judgment-debtor is required to deposit the arrear occupation charges at the said rate with the Appeal Court below within a period of three months from date and the current occupational charges be also deposited with the Appeal Court within the 7th day of each succeeding month for which it falls due.

If the aforementioned deposits are made within the stipulated time, the operation of the impugned decree shall remain stayed till the disposal of the connected appeal; in default of any of the aforementioned deposits, the stay hereby granted shall be automatically vacated and the decree shall be executable at once.

The Appeal Court below is requested to expedite the disposal of the appeal and in doing so, shall not entertain the prayer of the parties for unnecessary adjournment.

C.O. 193 of 2024 is disposed of with the above terms without any order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)