

07.03.2024

Sl no. 10

Ct no. 19

PB/P.M.

C.O. 286 OF 2023

Kalipada Karmakar

- Vs -

Anima Adak.

Mr. Debasis Sen,
Mr. Hare Krishna Haldar,
Mr. Anshuman Patra

.... for the petitioner.

Mr. Purnasish Gupta,
Mr. Jayanta Kr. Mukherjee,
Mr. Subhendu Sinha Roy

... for the opposite party.

1. Affidavit of service filed by the petitioner is taken on record.
2. By the order dated January 7, 2023 passed in Title Appeal No. 09 of 2022, the learned Civil Judge, Senior Division, Chandernagore, Hooghly directed payment of occupational charges of Rs. 3000/- from the date of the decree passed in Title Suit No. 102 of 2018 as a condition for stay of the execution. The tenant challenged the said order on the ground that Rs. 3000/- was excessive.
3. This Court entertained the revisional application on September 21, 2023 and passed an interim order directing payment of Rs. 1500/- per month as occupational charges on and from September, 2023 month by month, every month within 7th of the succeeding month.

4. Further sum of Rs. 54,000/- towards arrears was also directed to be deposited. Challans have been produced before this Court which indicates that Rs. 54,000/- was deposited on or about September 27, 2023 and other challans with regard to the monthly deposit of Rs. 1500/- have also been produced before this Court. The matter was made returnable before this Court for final disposal today. The Title Execution Case No. 13 of 2021 which was pending before the learned Junior Division, Chandernagore was stayed subject to such payment.
5. In the meantime, the Title Appeal No. 9 of 2022 has been disposed of on January 10, 2024. Thus, the revisional application has now become infructuous.
6. Upon disposal of the appeal, the question of stay of the execution would not arise. The tenant would have to initiate proceedings before a superior forum and pray for further reliefs. The execution case shall continue in view of the dismissal of the appeal.
7. The revisional application is, thus, disposed of. The interim order passed earlier stands vacated. The amount deposited as per the order of this

court will be subject to final disposal of the entire proceeding or adjustments, as the case may be.

8. Needless to mention, if the landlord initiates proceeding for mesne profit, the payment so far will be adjusted in accordance with law.

(Shampa Sarkar, J.)