

ML 2950 &
Item No.2
24.04.2024
Court. No. 19
GB

C.O. 420 of 2023

Sri Debendranath Samanta & Ors.

Vs.

Bijoy Jana & Ors.

With

C.O. 867 of 2023

Bijoy Jana & Ors.

Vs.

Smt. Urmila Samanta & Ors.

*Mr. Partha Pratim Roy,
Mr. Sarbananda Sanyal*

*...for the Petitioners
(in C.O. 420 of 2023).*

Mr. Tarak Nath Halder

*...for the Opposite Parties.
(in C.O. 420 of 2023)*

As similar questions are involved in both the revisional applications being C.O. 867 of 2023 and C.O.420 of 2023, they are taken up together on consent of the parties.

In Re: C.O.420 of 2023

This is an application challenging the order dated January 19, 2023, passed by the learned Additional District Judge, Fast Track, 1st Court at Sealdah, District – 24 Parganas (South) in Misc. Appeal No.19 of 2022.

By the order impugned, the learned court imposed occupational charges of Rs.1200/- per month as a condition for grant of stay of the execution case. The opposite parties are the decree-holders in a suit for partition and the alleged tenanted premises fell within the share of the opposite parties. The petitioners claimed to be the tenants and filed an application

under Order 21 Rules 99 to 101 of the Code of Civil Procedure. Such application was rejected. Thus, the opposite parties sought to recover the portion that was being enjoyed by the petitioners, upon eviction of the petitioners.

Challenging such order in the misc. case, the petitioners preferred Misc. Appeal No.19 of 2022. During the pendency of the misc. appeal, the petitioners prayed for stay of the execution which was allowed by the learned court upon directing the petitioners to deposit Rs.1200/- per month before the learned executing court as occupational charges on and from August 10, 2022. According to the petitioners, the said amount was excessive and arbitrary.

The learned advocate for the opposite parties submits that the premises is situated in the heart of Calcutta, at Ultadanga. The rent of similarly situated rooms were around Rs.15,000/- per month and the learned court had directed a much lesser amount.

Considering the reasons given by the learned court with regard to the area, the size of the room with a verandah, the nature of the construction, and the locality in which the premises is situated, this court is of the view that the amount of Rs.1200/- per month as occupational charges, is reasonable.

I do not find any reason to interfere with the order impugned. The petitioners, themselves, have stated in their application which was registered as Misc. Case No.8 of 2016 that they were monthly tenants in respect of one room with a verandah with common user of bath and privy, being a portion

of Premises No.20/H/11, Krittibash Mukherjee Road (also known as 20/12, Uzir Choudhury Road) under Police Station – Ultadanga, Kolkata – 700067. The locality is in the heart of Kolkata and a very busy and expensive area. The petitioners are enjoying a verandah and a room. Thus, the learned court did not err in awarding Rs.1200/- per month as occupational charges.

Accordingly, the revisional application is dismissed.

In Re: C.O.867 of 2023

This is an application by which the landlord has prayed for enhancement of the occupational charges.

This Court has given reasons in the above revisional application indicating why the court was justified in awarding Rs.1200/- per month as occupational charges. The initial rent was Rs.30/-, which was enhanced to Rs.50/-. The room has a tile shed and the tenants have to use the common bath and privy. Thus, the claim of Rs.15000/- is unjustified, arbitrary and not backed by any reason. Rather, the learned court was of the view that Rs.1200/- was the usual rent which a similarly situated property would fetch.

The revisional application is disposed of without any order.

However, as the misc. appeal has been pending for a while and the landlord has been suffering, the learned Additional District Judge, Fast Track, 1st Court at Sealdah, District – 24 Parganas (South) is directed to make a sincere endeavour to dispose of the Misc. Appeal No.19 of 2022 within

a period of two months from the date of communication of this order.

All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)