

5th March,
2025
(AK)
08

S.M.A.T 3 of 2023

IA No: CAN 1 of 2023

CAN 3 of 2024

Kaiser Parvez
Vs.
Arun Kumar Mohata and others

Mr. Meghnad Dutta

Mr. S. Bandra

...for the respondents.

1. The present application has been filed post-dismissal of the appeal under Order XLI Rule 11 of the Code of Civil Procedure.
2. The appeal arose out of an application under Order XXI Rules 97 to 101 of the Code of Civil Procedure.
3. The decree holder/respondent no.1/petitioner won in both the courts below, which was affirmed by this court by an order dated May 1, 2024.
4. It is submitted by learned counsel for the petitioner that by an order dated May 15, 2023, an amount of Rs. 2 Lakh was directed to be deposited by the appellant with the learned Registrar General of this

court as *ad hoc* occupation charges considering the value of the property in the area concerned, which was subsequently deposited, as evidenced by the challan annexed to the present application.

5. Learned counsel for the respondent no.1/petitioner submits that since the appeal has been dismissed, the said amount may be directed to be disbursed as occupation charges in favour of the decree holder/respondent no.1/petitioner.
6. Upon hearing learned counsel for the petitioner, we concur with the submission of the petitioner.
7. Since the amount concerned was directed to be deposited as occupation charges, there is no reason why the same should not be disbursed in favour of the decree-holder/respondent no.1/present petitioner along with interest, if any accrued thereon.
8. Hence, CAN 3 of 2024 is allowed, thereby directing the learned Registrar General of this court to disburse the amount of Rs.2 lakh deposited in connection with the present Second Miscellaneous Appeal by the appellant along with any interest, if accrued thereon, after deducting the necessary statutory charges.
9. Such disbursal shall be made at the earliest upon the respondent no.1/petitioner approaching the learned Registrar General.

10. There will be no order as to costs.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)