

S/L 1
16.7.2024
Court No.19
SD

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION

CO 831 of 2023
With
CAN 1 of 2024
[Application not in the file]

Uttam Kumar Gupta
Vs.
Apurba Ghosh Roy

Mr. Sounak Bhattacharyya
Mr. Sounak Mondal
Mr. Abhirup Halder

...for the Petitioner.

Mr. Arif Ali

...for the Opposite Party.

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

The matter has been brought to the list for
extension of interim order but by the consent of the
parties, the revisional application is taken up for final
disposal.

The petitioner has suffered a decree of eviction
passed in Title Suit No.29 of 2015 by the 8th Court of
learned Civil Judge (Senior Division), Alipore, District: 24
Parganas (South), aggrieved thereby, he has preferred the
connected Title Appeal No.37 of 2022 which is pending
before the 3rd Court of learned Additional District Judge at
Alipore, District: 24 Parganas (South).

In the said appeal, at the instance of the petitioner
a conditional order of stay of operation of the judgment
and decree under appeal was passed vide order no.11
dated August 24, 2022, subject to payment of

occupational charges at the rate of Rs.20,000/- per month.

The said order is under challenge in the present revisional application.

Mr. Sounak Bhattacharyya learned advocate for the petitioner submits that his client is not aggrieved by the quantum of occupational charges but by the direction of payment of the said occupational charges to the respondent/opposite party.

He further submits that the decree holder/respondent had filed an application for vacating of the said order of stay, the appeal Court below by the order no.14 dated February 07, 2023 has disposed of the said application; the said order is also under challenge.

Mr. Ali, learned advocate for the plaintiff/opposite party submits that by the order dated February 07, 2023 the appeal Court below has taken care of the grievance of the petitioner and has practically dismissed the application filed by the plaintiff/opposite party for vacating the said order of stay.

Heard learned advocate for the parties; perused the materials-on-record.

It appears from the record that the petitioner has already deposited some amount with the appeal Court below. The appeal Court by the order dated February 07, 2023 has directed the petitioner to withdraw the said amount and pay the same to the plaintiff/respondent and to continue to pay the occupational charges to him. In the

said order it has been observed that respondent had to refund the occupational charges in the event the appellant succeeds in the appeal.

The petitioner wants to secure the said refund. The plaintiff/respondent, the opposite party herein is directed to file an undertaking in the form of an affidavit before the appeal Court below that in the event the appellant, the petitioner herein succeeds in the appeal, he will refund the occupational charges received by him during the pendency of the said appeal.

CO 2441 of 2024 is disposed of with the above terms with no order as to costs.

In view of the disposal of the revisional application, the application for extension of interim order being CAN 1 of 2024 has become infructuous and is disposed of accordingly.

Parties to act on the server copy of this order duly downloaded from the official *website* of this Court.

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.)