

**Item 07.08.
No. 2024
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**Ct
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IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE

C.O. 804 of 2022

**Rajkumar Chaurasia @ Rajkumar Barui & Ors.
Vs
Sri Surendra Prasad Barui**

Mr. Bratin Kumar Dey,
Ms. Anjana Banerjee.

... for the petitioner.

1. Affidavit of service is filed and taken on record.
2. Petitioners are represented by the learned counsel
Mr. Bratin Kumar Dey.
3. None appear on behalf of the opposite party.
4. Challenge is the order dated 12.01.2022 in
connection with Title Appeal No. 08 of 2021 passed
by the learned Additional District Judge, 1st Court,
Barrackpore, whereby learned Judge stayed the
judgment and decree dated 05.04.2021 passed by
the learned Civil Judge (Junior Division),
Bidhannagar subject to payment of occupational
charges equivalent to existing monthly rent of
Rs.130/-.
5. Learned counsel appearing on behalf of the
petitioners has submitted that Title Suit being No.

360 of 1998 was filed by the plaintiffs/petitioners herein on the ground of default in payment of rent. After trial, the said suit was decreed in favour of petitioners/landlords. Being aggrieved, opposite party preferred an appeal being Title Appeal No. 8 of 2021 challenging the judgment and decree passed by the learned Trial Court.

6. It is further submitted that in that appeal opposite party filed an application for stay of the judgment and decree passed by the learned Trial Court. After hearing both sides, learned Judge passed an order directing opposite party/tenant to pay the occupational charges equivalent to monthly rent.
7. After careful perusal of the order impugned, I find that learned Judge passed an order of stay of the judgment and decree passed by the learned Trial Judge subject to payment of existing monthly rent only in violation of settled proposition of law. From the order, I find that learned Judge did not make any enquiry to assess occupational charges.
8. On this score only, this order is not sustainable in law.
9. Accordingly, the order dated 12.01.2022 in connection with Title Appeal No. 08 of 2021 passed by the learned Additional District Judge, 1st Court, Barrackpore stands set aside.
10. Learned Appellate Court is requested to make

necessary enquiry after giving an opportunity of hearing to the parties to this appeal and to find out the amount of occupational charges subject to valuation prepared by any registered valuer.

11. Learned Appellate Court is directed to dispose of the issue of occupational charges within 15 days from the date of communication of this order.
12. With this observation and direction the revisional application stands disposed of.
13. Connected applications, if any, also stand disposed of.
14. Let the copy of this order be communicated to the learned Appellate Court.
15. Urgent photostat certified copy of the order, if applied for, be given to the parties on usual undertakings.
16. All parties shall act on the server copies of this order duly downloaded from the official website of this Court.

(Bibhas Ranjan De, J.)