

Item No. 08

Ct 22

rup

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE

C.O. 1284 of 2024

(Assigned)

**Partha Pratim Ghosh @ Partha Ghosh
Vs
Mallika Jana & Ors.**

Ms. Manali Biswas,

... for the petitioner.

Mr. Debdipto Banerjee,
Mr. Soumen Banerjee.

... for the opposite parties.

1. This revisional application has been filed assailing the order dated 14th March, 2024 in connection with Ejectment Appeal No. 6 of 2023 by the learned Additional District, Fast Track Court-II Sealdah, 24 Parganas (South).
2. Learned counsel on behalf of the petitioner has submitted that original suit was filed for eviction on the ground of reasonable requirement before the Court of Civil Judge (Junior Division), 1st Court, Sealdah in connection with Ejectment Suit No. 8 of 2017 which was decreed against the defendants/petitioner herein and being aggrieved by and dissatisfied with said judgment and decree, the appeal has been preferred before the learned

Additional District Judge I, Sealdah. Subsequently, that appeal was transferred to the Court of learned Additional District Judge, Fast Track Court-II, Sealdah. One application for stay was filed on behalf of the petitioner herein and that was disposed of by the order impugned, holding inter alia, that the judgment and decree passed by the learned Civil Judge (Junior Division), 1st Court, Sealdah shall remain stayed subject to payment of occupational charge of Rs.15,000/- per mensem.

3. Learned counsel on behalf of the petitioner has submitted that monthly rent of subject premises was Ra.100/- and occupational charges has been assessed excessively and prays for consideration of the amount only.
4. Learned counsel on behalf of the plaintiff/opposite party herein has drawn my attention to the objection to the stay application before the Appellate Court stating, inter alia, that the subject premises/shop room is situated in a very strategic location i.e one kilometer away from Sealdah and with all amenities and, therefor, learned Judge rightly considered the amount as 15,000/- per mensem towards occupational charge.
5. Learned Judge recorded the reason for assessing the occupational charge as follows:

“It is found that the suit premises is

situated within the jurisdiction of Beliaghata P.S and consists of 1 road side shop room. It is also found that the decree for eviction has been passed against the appellant on the ground of reasonable requirement of the respondents in respect of the suit property and that the appellant is nothing but a trespasser in respect of the suit property. In view of the locational advantage, the ground on which the decree for eviction has been passed, long pendency of the dispute, and the tentative hike in occupation charges over his long period, I am of the opinion that a sum of Rs.15,000/- per mensem would be just and proper as occupational charges for the suit premises.”

6. Learned Judge considered the location of the shop room and hike in occupational charges.
7. Considering all facts and circumstances also considering the location of the subject premises/shop room, I am of the humble opinion that the occupational charges should be reduced from 15,000/- to 12,000/- per mensem.
8. I do not find any other infirmity in the order assailed in this revisional application.
9. Defendant/petitioner herein is directed to pay the occupational charges strictly in compliance with the direction of the learned Trial Judge.
10. With this observation, the revisional application stands disposed of.
11. Connected applications, if any, also stand disposed of.
12. Urgent photostat certified copy of the order, if applied for, be given to the parties on usual undertakings.

13. All parties shall act on the server copies of this order duly downloaded from the official website of this Court.

(Bibhas Ranjan De, J.)