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June, 2024
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Ct. 19
10.06.2024

*In The High Court At Calcutta
Civil Revisional Jurisdiction
(Appellate Side)*

C.O. 1498 of 2024

**Hamida Bibi @ Laskar, since deceased,
represented by her legal heir, namely, Ajijul Hakim
Laskar**

Vs.

Miss Flora @ Nahoum & Ors.

Mr. Sanjay Mukherjee,
Mr. Dhananjay Nayak,
Mr. Arghadip Das ... For the petitioner.

Mr. Sayantan Bose,
Mr. Rajarshi Dutta,
Mr. Sarbajit Mukherjee ... For the O.P. No. 1.

The revisional application under Article 227 of the Constitution of India is directed against the order dated March 07, 2024 passed by the Learned Judge, Bench – II, Presidency Small Causes Court at Calcutta in Miscellaneous Case No. 92 of 2018 arising out of Execution Case No. 51 of 2000.

The plaintiff/decreed holders/opposite party nos. 1 to 6 has put the decree of eviction passed in Ejectment Suit No. 410 of 1978 into execution giving rise to the connected Execution Case.

The petitioner in the said Execution Case has filed an application for determination of her independent right title interest over the suit property under Rule 101 of Order XXI of the Code of Civil Procedure, being the said Misc. Case No. 92 of 2018.

The Executing Court by the order impugned has allowed the prayer of the petitioner for stay of further proceedings of the connected Execution Case till the disposal of the said

Misc. Case, subject to payment of occupational charges @ Rs. 2000/- per month.

The petitioner is aggrieved by the said rate of occupational charges.

It appears from the record that the suit property is a commercial property and it is situated in a prime location of Kolkata, i.e. opposite to the New Market, therefore the determination of the occupational charges @ Rs. 2,000/- per month cannot be faulted, the order impugned therefore does not call for any interference.

However, the order impugned requires clarification with regard to the manner of deposit of the said occupational charges.

The petitioner shall deposit the arrear occupational charges at the said rate with the Executing Court within the month of July, 2024, and the current occupational charges be also deposited with the Executing Court within the 7th day of each succeeding month for which it falls due.

If the aforementioned deposits are made within the stipulated time, the further proceedings of the execution case shall remain stayed till the disposal of the connected Misc. Case; in default of any of the aforementioned deposits, the stay hereby granted shall be automatically vacated and the decree shall be executable at once.

C.O. 1498 of 2024 is disposed of with the above terms without any order as to costs.

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.)