

02.08.2024
Item No.10, DL
Ct.19
A.J.

**IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION**

C.O. 2084 of 2024

**Ratan Kumar Saha
-Vs-
Mira Rani Saha**

Mr. Sourtadipta Banerjee,
Mrs. Fatima Hassan.
...for the petitioner.
Mr. Ayan Banerjee.
...for the opposite party.

The petitioner has suffered an *ex-parte* decree of eviction in Ejectment Suit No. 13 of 2018 passed by the learned Civil Judge (Junior Division) at Bidhannagar, District : 24-Parganas (North).

The petitioner has taken out an application under Order IX Rule 13 of the Code of Civil Procedure for setting aside of the said *ex-parte* decree being Misc. Case No. 47 of 2022.

In the meantime, the decree-holder, the opposite party no. 1 herein, has put the said decree into execution being the Ejectment Execution Case No. 07 of 2022.

In the said Misc. case, the prayer of the petitioner for stay of the said Execution case has been allowed but subject to the deposit of **Rs. 10,000/-** per month from the date of decree on account of occupational charges with the Executing Court.

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

Mr. Banerjee, learned Advocate for the petitioner submits that the said *ex parte* decree on merit, is not sustainable for a moment and the same was passed in violation of the Standard Operating Procedure followed by the Courts during the period of Covid-19 pandemic. He further submits that the financial condition of his client would not permit him to pay occupational charges at the said rate.

The suit shop room is situated near Diamond Plaza at Jessore Road measuring about 120 square feet, a prime commercial area of Kolkata, as such, the assessment of the rate of occupational charges in comparison with the location of the suit shop room and the market value of the properties in the said area, is on the lesser side, however, considering the submission of Mr. Banerjee regarding the financial condition of his client, *the amount of occupational Charges is reduced to the rate of Rs. 8000/- per month, payable from the date of the decree.*

The said occupational charge is to be deposited with the Executing Court within the 7th day of each succeeding month, for which it falls due and the arrears are to be deposited by four equal monthly instalments.

The first of such instalments is to be deposited by September 07, 2024.

In the event the deposits, as directed above are made within the time, all further proceedings of the Ejectment Execution Case No.07 of 2022 pending before the Court of Civil Judge(Junior Division) at Biddhannagar, District-24 Parganas(North) shall remain stayed till the disposal of the Misc. Case No. 47 of 2022, in default of making any of the deposits as directed, the order of stay hereby granted shall automatically stand vacated and the decree would be executable at once.

Needless to say, that in the event the petitioner succeeds in the said misc. case, he would be entitled to withdraw the amount so deposited by him on account of occupational charges.

C.O. 2084 of 2024 is disposed of with the above terms without any order as to costs.

Urgent Photostat certified copies of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)