

S/L 3
21.8.2024
Court No.19
SD

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION

CO 2719 of 2024

Sri Suman Kalyan Maity
Vs.
Sri Subal Kumar Sau & Ors.

With

CO 2621 of 2023

Sri Suman Kalyan Maity & Ors.
Vs.
Sri Subol Kumar Sahoo & Ors.

Mr. Amit Baran Dash
Ms. Ankana Sarkar

... for the Petitioner
[in CO 2719 of 2024].

Mr. Sandip Ghosh
Mr. Diptyendu Kr. Pal

... for the Petitioners
[in CO 2621 of 2023].

Mr. Tanmoy Mukherjee
Mr. Kamal Mishra
Mr. Pratam Sanfui
Mr. Subhadeep Maitra
Mr. Souvik Das

... for the Opposite Party Nos.1-3.

These two revisional applications are taken up for analogous hearing and disposal since they are arising out of the selfsame eviction proceeding.

The petitioners in both the revisional applications have suffered a decree of eviction passed in *Title Suit No.194 of 2009* and aggrieved thereby, have preferred an appeal being *Title Appeal No.6 of 2023* which is pending before the 2nd Court of learned Civil Judge (Senior Division) at Contai, District: Purba Medinipur.

In the meantime, the said decree of eviction has been put into execution giving rise to *Title Execution Case No.4 of 2023* before the 2nd Court of learned Civil Judge (Junior Division) at Contai, District: Purba Medinipur.

The appeal Court below by the order no.5 dated July 03, 2023 has allowed the prayer of the petitioners for stay of the

said Execution Case subject to payment of occupational charges at the rate of Rs.10,000/- per month from the date of decree, i.e., December 07, 2022. The petitioners have challenged the said order in *CO 2621 of 2023*.

The suit property is comprised of 22 decimal of land at Mouja – Syedpur, District: Purba Medinipur under the P.S – Ramnagar. In view of the area of the suit property, the assessment of the occupational charges is not on the higher side, therefore, the impugned order no. 5 dated July 03, 2023 does not call for any interference.

Mr. Tanmoy Mukherjee learned advocate for the decree holders submits that the petitioners, without complying with the condition of stay, had arrested the further proceeding of the Execution Case showing the pendency of the present revisional applications, as a result, the decree holders have suffered, which may be compensated.

Mr. Sandip Ghosh, learned advocate for the petitioners in *C.O 2621 of 2023* submits that his clients may be permitted to liquidate the arrear occupational charges by installments.

The judgment debtors are required to deposit the arrear occupational charges with the appeal court below **within two weeks from date** and the current occupational charges shall be deposited according to the direction of appeal Court below.

The decree holders are entitled to costs which is assessed at **Rs.25,000/- (Rupees Twenty five thousand only)**; such costs be paid within a period of **one week from date**.

In the event, the payments as directed are made within the time stipulated above, the further proceedings of the aforementioned Title Execution Case shall remain stayed till the disposal of the connected appeal but in default of any of such

payment, the stay hereby granted shall automatically stand vacated and the decree shall be executable at once.

The petitioners did not comply with the order impugned for a long time but successfully deferred the execution of the eviction decree causing hardship to the decree-holders.

Therefore, the petitioners are required to pay costs of to the decree-holders. The arrear occupational charges be deposited with the appellate court below within two weeks from date.

Mr. Dash, learned advocate for the petitioner in *CO 2719 of 2024* on instruction submits that his client is not willing to press the connected *J. Misc. Case No.55 of 2023*.

In view of such stand of the petitioner, the said Misc. Case stands dismissed.

The appeal Court below is requested to expedite the disposal of the appeal in accordance with law, and in doing so, shall not entertain the prayer of the parties for any unnecessary adjournment.

CO 2621 of 2023 and CO 2719 of 2024 are thus disposed of.

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

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

(Biswajit Basu, J.)