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Ct. 19
12.09.2024

*In The High Court At Calcutta
Civil Revisional Jurisdiction*

C.O. No. 3212 of 2024

Purnima Mandal

Vs.

Bijit Behari Shaw

Mr. Dhana Krishna Adhikari,
Mr. Tarapada Das ... For the petitioner.

Ms. Labonyasree Sinha, (VC),
Ms. Somali Bhattacharjee ... For the opposite party.

Affidavit-of-service filed on behalf of the petitioner
be kept with the record.

The petitioner has suffered a decree of eviction in
Ejectment Suit No. 371 of 2006 passed by the learned
Judge, 3rd Bench, Presidency Small Causes Court at
Calcutta; aggrieved thereby, the petitioner has
preferred the connected *Title Appeal No. 84 of 2023*
pending before the learned Chief Judge, City Civil
Court at Calcutta.

The Appeal Court below by the order dated August
03, 2024 has disposed of an application filed by the
petitioner for stay of operation of the judgment and
decree under appeal subject to payment of
occupational charges @ Rs. 40,000/- per month to the
decree holder. The arrear occupational charges for the
period from August 2023 to July 2024 i.e. Rs.
4,80,000/- was directed to be paid by way of six equal
monthly installments, details whereof are given in the
said order. The current occupational charges were

directed to be paid by the 15th of each succeeding month for which it falls due.

The petitioner defaulted in complying with the said condition; in consequence thereof, the Appeal Court below has vacated the said order of stay vide order no.10 dated August 17, 2024.

The said orders are under challenge.

The learned advocate for the petitioner submits that his client shall pay the entire arrear amount of occupational charges at a time and shall pay the current occupational charges in terms of the order of the Appeal Court below and on such condition, he prays reinforcement of the said order of stay.

The arrear occupational charges by this time has become Rs. 5,20,000/-; the petitioner shall deposit the said amount along with the occupational charges for the month of September, 2024 in the bank account of the decree holder on or before September 20, 2024.

The learned advocate for the decree holder shall supply the details of the bank account of her client to the advocate for the petitioner and by September 19, 2024 shall file an undertaking in the form of an affidavit before the Appeal Court below with a copy to the petitioner that in the event the petitioner succeeds in the Appeal, he would refund the entire amount received by him during the pendency of the appeal on account of occupational charges to the judgment debtor.

In the event the petitioner makes the payment as directed above, the order of stay passed by the Appeal Court below vide order dated August 03, 2024 shall be reinforced and shall continue till the disposal of the said Title Appeal.

The petitioner is obliged to make payment of the current occupational charges in the manner indicated in the said order dated August 03, 2024.

In default of compliance of any of the directions made above, the order of stay of operation of the said judgment and decree shall automatically stand vacated and the decree would be executable at once without any reference to the Appeal Court below.

In view of this order, the order dated August 17, 2024 is set aside.

C.O. 3212 of 2024 is disposed of with the above observations without any order as to costs.

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.)