

AD-11
Ct No.16
13.01.2025
(SSS)

FAT 329 of 2023
With
CAN 2 of 2024
With
CAN 3 of 2024

Sri Mohan Chakraborty
Vs.
Dr. Ranjan Kumar Mitra

Mr. S. T. Mina,
Ms. Joyee Maiti,
Ms. Arpita Paul,
....For the Appellant.

Mr. Anshunath Chakraborty,
Mr. Pranab Palit,
...For the respondent.

1. Although CAN 1 of 2023 is not appearing in the list, since both parties are apprised of the facts and ready in the matter, the said application is treated to be on the day's list.
2. The supplementary affidavit filed on behalf of the appellant today be kept on record.
3. The appeal arises out of a decree for eviction of licensee.

4. It is contended by learned Counsel for the appellant that unless an order of stay of operation of the decree is passed, the appeal will be rendered infructuous. Learned Counsel for the respondent submits that the application is not maintainable in view of the impugned decree having already been implemented by levying execution.

5. However, we find that merely because an execution case has been filed, thereby seeking to implement the impugned decree, the application, although couched as one for stay of operation of the decree, cannot be treated to be infructuous.

6. Accordingly, there shall be stay of operation of the impugned decree as well as connected execution case, if any, till disposal of the application.

7. However, it is made clear that the question of imposition of occupation charges as a condition of grant of stay is kept open for being decided at the final hearing of the application. The respondent shall file his affidavit-in-opposition to the application within a fortnight from date, disclosing therein relevant materials to show the current market rates at which occupation charges may be imposed.

8. Reply, if any, shall be filed within a week thereafter. The application shall be listed next on February 10, 2025 under the same heading.

9. The respondent/opposite party shall also file an affidavit-in-opposition to CAN 3 of 2024 within a fortnight from date. Reply, if any, thereto shall be filed within a week thereafter. CAN 3 of 2024 shall be listed along with CAN 1 of 2024 on the returnable date.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)