

IN THE HIGH COURT AT CALCUTTA
In appeal from its
ORDINARY ORIGINAL CIVIL JURISDICTION
CIVIL APPELLATE JURISDICTION

IA No: GA 1 of 2024
APOT No. 40 of 2024
With
PLA No. 88 of 1976
In the goods of:
Subodh Gopal Bose (Deceased)
And
In the matter of:
Shilali
Versus
Bharati Das & Ors.

IA No: GA 1 of 2024
APOT No. 43 of 2024
With
PLA No. 88 of 1976
In the goods of:
Subodh Gopal Bose (Deceased)
And
In the matter of:
Shilali
Versus
Bharati Das & Ors.

Before:
The Hon'ble Justice I. P. MUKERJI
And
The Hon'ble Justice MD. SHABBAR RASHIDI
Date: 3rd April 2024

Appearance:
Mr. Sandip Ghosh, Advocate
Mr. Subrata Das, Advocate
Mr. Debayan Ghosh, Advocate
for the appellant

Mr. R. L. Mitra, Advocate
for Deepak Kr. Sarkar

Mr. Jatindra Barik, Advocate
for Anirban Dutta

The Court: After hearing learned counsel for the parties we are
in a position to dispose of these appeals, dispensing with all formalities.

During the course of argument, two issues were involved. Mr.
Sandip Ghosh, learned advocate appearing for the appellant submitted

that his client had spent a substantial amount for repair and renovation of the subject property at Puri and was liable to be reimbursed that amount by adjustment with the amounts payable on account of the appellant's occupation of the said premises.

Mr. Ranjan Lal Mitra, learned advocate appearing for the respondent no.5 group Dipak Kumar Sarkar and others contended that a sum of Rs.6,60,000/- was due from Mr. Ghosh's client on account of unpaid rent during the Covid pandemic period and thereafter till date. He submitted that such sum should be immediately deposited by Mr. Ghosh's client.

Mr. Ghosh's client is now paying rent of Rs.60,000/- per month to the Receiver as occupation charges. This amount is being paid by her since 2013.

We are of the view that a comprehensive calculation of the cross claims of the said two parties is required to be made by the learned single judge and thereafter suitable directions be given for satisfaction of any claim which is found payable.

Keeping all these factors in mind, we dispose of both the appeals by this common judgment and order by setting aside the impugned orders dated 24th November 2023 and 21st December 2023 and requesting the learned trial court to revisit and readjudicate the above issues, on remand.

As an interim measure, we direct the appellant to pay occupation charges at the rate of Rs.75,000/- per month from April, 2024 payable by 30th April 2024 and by 15th of each succeeding month in advance to the Receiver. In addition to that, the appellant shall on account of arrear occupation charges deposit Rs.2,00,000/- with the Receiver in two instalments, one for Rs.1,00,000/- by 30th April 2024 and the other for Rs.1,00,000/- by 14th June 2024.

The above payment of occupation charges and the above deposit are to be treated as ad hoc and without prejudice to the rights and contentions of the parties which can be decided by the learned trial judge.

The appeals and the connected applications are disposed of.

As affidavits were not invited, allegations contained in the stay applications are deemed to have been not admitted.

(I. P. MUKERJI, J.)

(MD. SHABBAR RASHIDI, J.)

R. Bose