

18<sup>th</sup> June, 2025

Item no.DL 197  
Court No. 06

Asraf, A.R.(Ct.)

**In the High Court at Calcutta**  
**Civil Revisional Jurisdiction**  
**Appellate Side**

Case No. **CO 89 of 2024**

*In the matter of :*  
**JAYANTA CHOUWDHURY** *.... Petitioner*  
**VS.**

**SMT. RANU CHAKRABORTY & ORS.**  
*....Opposite Parties*

*For the Petitioner :*

**Mr. Ashim Ghoshal**  
**Ms. Sohini Chakraborty**  
**Mr. Supriyo Ghosh**  
**Ms. Susmita Adhikary**  
**Mr. Ashis Bhakta**

*....Advocates*

*For the Opposite Parties :*

**Ms. Sabita Mukherjee Roy Choudhury**  
**Ms. Sneha Singh**

*....Advocates*

This application under Article 227 of the Constitution of India is at the instance of the defendant and is directed against an order dated 3<sup>rd</sup> October, 2023 passed by the learned Judge, Bench-VII, City Civil Court at Calcutta in Title Appeal No.42 of 2018.

By the order impugned, the learned Judge of the First Appellate Court passed an order of stay of the execution case subject to payment of occupational charges.

Ms. Chakraborty, learned advocate appearing for the petitioner submits that the petitioner is in occupation of three rooms total measuring about 196 sq. ft. She submits that the suit property is in a dilapidated condition and lacks the basic amenities and, therefore, the learned Judge of the First Appellate court ought not to have fixed the occupational charges at Rs.6,000/- per month.

The learned Judge of the First Appellate Court after taking note of the Commissioner's report observed that the suit property consists of three rooms. The appellant / petitioner herein also enjoys one common verandah through which he gets access to his bedroom which is measuring about 9 ft. 9 inches x 8 ft. The learned Judge further recorded that from the Commissioner's report it does not appear that the suit property is lying in poor shabby condition making it difficult for habitation. The learned Judge further noted that the suit property is situated in the heart of the north Calcutta and in its vicinity there are reputed schools and other facilities.

The learned Judge of the First Appellate Court applied the correct legal tests for assessing the occupational charges. This Court is not inclined to interfere with the amount of occupational charges fixed by the learned Judge of the First Appellate Court sitting under Article 227 of the Constitution of India.

After this order is passed, Ms. Chakraborty, learned advocate appearing for the petitioner submits that 25<sup>th</sup> June, 2025 is fixed for delivery of possession. Ms. Roy Choudhury, learned advocate appearing for the decree holders / opposite parties submits that the Title Appeal no.42 of 2018 stood dismissed for default as the petitioner did not take any effective steps for prosecuting the same. She further submits that 28<sup>th</sup> July, 2025 has been fixed for hearing of the appeal. Ms. Chakraborty, learned advocate appearing for the petitioner, upon instruction submits that the petitioner is willing to put in a portion of the arrear occupational charges within the time limit that may be fixed by this Court.

There shall be an unconditional stay of all further proceedings in Ejectment Execution Case No.99 of 2018 pending before the learned Judge, 4<sup>th</sup> Bench, Presidency Small Cause Court at Calcutta till 4<sup>th</sup> July, 2025. If on or before 4<sup>th</sup> July, 2025, the petitioner pays a sum of Rs.1,50,000/- by a Bank Draft drawn in favour of Ritwik Chakraborty / Opposite Party no.5 who is the constituted attorney of other opposite parties / the decree holder the order of stay shall continue till the end of the month of July, 2025.

It will be open to the petitioner to pray for extension of the order of stay upon payment of the arrear occupational charges after adjusting the

amount as directed to be paid on or before 4<sup>th</sup> July, 2025. In addition thereto, the petitioner shall pay the current occupational charges at the rate and in the manner as directed by the learned Judge of the First Appellate Court.

With the above observation and direction, **CO 89 of 2024** stands **disposed of**.

There shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties after completion of all necessary formalities.

( **Hiranmay Bhattacharyya, J. )**