

A-1273
20.08.2025
Court No.6
BP

C.O. 223 of 2025

Sri Dhananjay Saha
-versus-
Sri Raja Das

Mr. Asit Baran Raut
Mr. Tuhin Subhra Raut
Ms. Ishita Raut
... for the petitioner

Mr. Tarak Nath Halder
..for the opposite party

This application under Article 227 of the Constitution of India is at the instance of the defendant/appellant in Ejectment Appeal No. 33 of 2024 and is directed against an order being no.4 dated 6th January, 2025 passed by the learned Additional District Judge, 2nd Court at Sealdah.

By the order impugned the learned judge of the 1st appellate court passed an order of stay of all further proceedings of the execution case subject to deposit of occupational charges at the rate of Rs. 15,000/- per month from the date of the judgement and decree passed by the learned trial judge.

Mr. Routh, learned advocate appearing for the petitioner submits that the market rate of rent of similar property in the same locality is much less than Rs.

10,000/-. He submits that the building is also in a dilapidated condition and is situated in a narrow lane.

Mr. Halder, learned advocate appearing for the respondent/opposite party submits that the measurement of the suit property is about 950 sq.ft. He submits that in the application for payment of occupational charges the opposite party has claimed Rs. 25,000/- per month as occupational charges. The petitioner herein did not file any written objection to such application. No material was also produced by the petitioner herein to controvert the rate of occupational charges claimed by the opposite party herein.

The learned judge of the 1st appellate court took into consideration that the suit property is situated within Maniktala and noted in the impugned order that though the suit property was not adjacent to the main road but the place appears to be a short distance from Maniktala Bazar which is a commercial hub of North Calcutta and the tenancy comprises of three bed room with separate dining area and kitchen. After taking into consideration the area occupied by the petitioner herein and applying the proposition of law laid down by the Hon'ble Supreme Court in the case of Atma Ram Properties (P) Ltd. Vs. Federal Motors(P) Ltd. reported at (2005) 1 SCC 705 as well as other decisions of the Hon'ble Supreme Court and this Court fixed the occupational charges at Rs. 15,000/- per month.

After going through the materials on record this Court is not inclined to interfere with the rate of occupational charges fixed by the learned judge of the appellate court.

At this stage Mr. Routh, learned advocate appearing for the petitioner submits that the petitioner is paying the occupational charges at the rate as directed in the impugned order but the petitioner could not pay the arrear occupational charges on account of financial stringency.

Taking into account such submission the petitioner is allowed to deposit the arrear occupational charges for four months on or before December 15, 2025.

It is, however, made clear that in default of payment of the current or the arrear occupational charges as directed by this Court the order of stay shall automatically stand vacated.

With the above observations and directions, C.O. 223 of 2025 stands disposed of.

There shall be, however, no order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Hiranmay Bhattacharyya, J.)