

Court No. 6
(265719)

26.02.2025
(AD 13)
(S. Banerjee)

CO 637 of 2025

Narayan Mondal
Vs.
Asha Rajak

Mr. Prosenjit Mukherjee
Mr. Jahangir Hossain
Mr. Aslam Parvez

...for the petitioner

This application under Article 227 of the Constitution of India is at the instance of the appellant in Title Appeal No. 120 of 2022 challenging the order being no. 26 dated November 18, 2024 passed by the learned 1st Additional District Judge, 1st Fast Track Court at Lalbagh, Murshidabad.

By the order impugned the application under Order 41 Rule 5 of the Code of Civil Procedure, filed by the petitioner herein praying for stay of all further proceedings of the Title Execution Case No. 6 of 2020, stood allowed on condition that the petitioner will pay occupation charges as directed by the first appellate Court.

Mr. Mukherjee, learned advocate appearing for the petitioner submits that the rate of occupation charges as fixed by the learned first appellate court, is higher than the prevailing market rate in the locality.

However, upon going through the impugned order this Court finds that no evidence in support of such contention was neither placed before the learned trial Judge or before this Court at the time of hearing of this application. The learned trial Judge took note of the proposition of law settled by the Hon'ble Supreme Court with regard to payment of occupation charges as a condition for stay of the execution case.

This Court, therefore, is not inclined to interfere with the order impugned.

Accordingly, CO 637 of 2025 stands dismissed.

There shall be no order as to costs.

(Hiranmay Bhattacharyya, J.)