

05.03.2025
Sl. No. 28
g.b.
Court No.06
265719

CO 778 of 2025

Shamim Parwez
-Vs-
Bholanath Kundu

Mr. Dhiraj Trivedi, Sr. Advocate
Mr. Bikash Kr. Singh
.....For the Petitioner
Mr. Abhijit Ray
Mr. Santu Nandy
.....For the Opposite Party

This application under Article 227 of the Constitution of India is at the instance of the appellant and is directed against the orders dated 10th of February, 2025 and 18th of February, 2025 both passed by the learned Chief Judge, City Civil Court at Calcutta in Title Appeal No. 57 of 2024.

By the order impugned the learned Chief Judge, City Civil Court at Calcutta fixed the occupation charges @ Rs.200/- per square feet. in respect of a shop room situated at Chandney Chowk.

Mr. Trivedi, learned senior advocate appearing for the petitioner submits that in respect of a shop room situated on the road side in the same locality the occupation charges have been fixed @ Rs.100/- per square feet. He submits that an application under Section 151 of the Code of Civil Procedure was taken out in order to bring to the notice of the learned Judge as to the order

passed fixing the occupation charges of a shop room situated in the same locality.

Mr. Ray, learned advocate appearing for the respondent in the Title Appeal/opposite party herein vehemently opposed the prayer of Mr. Trivedi for reduction of the occupation charges. Mr. Ray further refers to another order passed in respect of a shop room situated in the same premises in the second floor of the suit building wherein the occupation charges have been fixed @ Rs.300/- per square feet per month. However, taking note of the fact that the measurement of the decretal property is only about 31 square feet and also taking note of the fact that the shop room is not situated facing the main road, this court is of the considered view that the occupation charges @ Rs.100/- per square feet per month would be a reasonable occupation charge in respect of the property in question.

The learned Trial Judge passed the decree some times in the month of August, 2024. In view thereof, the petitioner is liable to pay occupation charges @ Rs.100/ per square feet. per month with effect from August, 2024. Therefore, the occupation charges of the shop room measuring about 31 square feet. @ Rs.100/- per month comes to Rs.3,100/- per month. The arrear occupation charges for the period from August, 2024 till February, 2025 comes to Rs.21,700/-. Out of the said amount a sum of Rs.12,000/- shall be paid by the

petitioner to the opposite party herein by demand draft on or before March 21, 2025.

It has been submitted by Mr. Ray, learned advocate appearing for the opposite party that the decree has been put into execution being Ejectment Execution Case No. 33 of 2025 pending before the learned Judge, 2nd Court, Presidency Small Causes Court at Calcutta.

There shall be an unconditional order of stay of all further proceedings in Ejectment Execution Case No. 33 of 2025 which is pending before the learned Judge, 2nd Court, Presidency Small Causes Court at Calcutta till March 21, 2025.

If the amount of Rs.12,000/- as directed hereinbefore is deposited on or before March 21, 2025, the order of stay shall continue till the disposal of appeal, subject to the following conditions:

- (a) The balance amount of Rs.9,700/- shall be paid to the decree holder in the manner as indicated above hereinbefore on or before April 4, 2025.
- (b) The petitioner shall go on paying the monthly occupation charges at the rate as fixed by this court hereinbefore on and from March, 2025 within 7th day of each succeeding English Calendar Month. It is however made clear that in case of failure to comply with any other conditions, the order of stay shall stand automatically vacated without any further reference to this court.

After this order is dictated, Mr. Trivedi submits that the petitioner shall transfer the amount as indicated hereinbefore to the Bank Account of the opposite party through NEFT. The learned advocate for the opposite party accepts such proposal.

The learned advocate on record of the opposite party is directed to furnish the necessary particulars to the learned advocate on record of the petitioner on or before 07.03.2025 and the petitioner shall pay the amount on account of occupation charges to the Bank Account of the opposite party through NEFT instead of payment through Demand Draft.

The impugned order stands modified to the above extent as indicated hereinbefore.

With the above observation and direction CO 778 of 2025 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 compliance of all necessary formalities.

(Hiranmay Bhattacharyya,

J.)