

D/L- 10
20/03/2025
Ct. No.-6
Aritra

C.O. 972 of 2025

**Sunil Tiwari & Anr.
Versus
Dharmaraj Kurmi @ Mahato**

Ms. Smita Pal

...for the petitioner

This application under Article 227 of the Constitution of India is at the instance of the plaintiffs and is directed against an order being No.15 dated January 4, 2025 passed by the learned Additional District Judge, 2nd Court, Serampore, District-Hooghly in Title Appeal No.68 of 2022.

The petitioner herein suffered a decree for eviction. Challenging the decree of eviction the petitioner has preferred an appeal being Title Appeal No.68 of 2022.

The opposite party herein has put the eviction decree into execution giving rise to Title Execution Case No.5 of 2023.

The petitioner filed an application praying for stay of all further proceedings of the execution case.

The opposite party herein filed an application praying for occupation charges.

The learned Trial Judge after considering the nature of the property as well as its condition fixed an occupation charges of Rs.2000/- per month with effect from the date of filing of the appeal.

The petitioner has suffered a decree for eviction and has availed of statutory remedy of appeal. An order of stay of execution case would amount to depriving the decree holder of the fruits of the decree. The petitioner herein is in occupation of the suit property and having suffered a decree is liable to pay occupation charges at the market rate of rent.

The learned Judge of the First Appellate Court assessed the occupation charges at Rs.2000/- per month.

This Court does not find any reason to interfere with fixation of such quantum of occupation charges.

For such reason this Court is not inclined to interfere with the order impugned, CO 972 of 2025 stands dismissed.

There will be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Hiranmay Bhattacharyya, J.)