

11.3.2025
DL.9

Court No.652
sg

CO 1217 of 2019

Sri Ramesh Chakraborty

Vs.

Sri Biswanth Sadhukhan

Mr. Raja Adhikary

Mr. Mrinal Das

Ms. Rukasaa Parveen

....for the petitioner.

This matter appears at the instance of the learned Advocate for the petitioner.

It is submitted in the order 06.02.2025, the case no. being C.O. 1217 of 2019 has wrongly been typed as C.O. 1217 of 2018. The same stands corrected and read as C.O. 1217 of 2019.

The other portion of the order dated 06.02.2025 remains unaltered.

Department is directed to take necessary correction in the said order.

The instant revisional is directed against the order dated February, 2 of 2019. By the impugned order the petitioner herein was directed to pay occupational charges amounting to Rs. 12,000/- per month to the landlord. The impugned order has been challenged on the ground that the amount of occupational charges so fixed by the learned Executing Court is exorbitant. Petitioner was inducted in the said premises at monthly rent of Rs.

220/- per month. Therefore, the Executing Court committed grave error by directing the petitioner to pay occupational charges at the rate of Rs. 12,000/- per month which is too excessive and unjustified.

The opposite party/landlord filed a suit for eviction being Title Suit No. 260 of 2006 against the tenant. The present petitioner was not a party to the suit. The suit was decreed in favour of the opposite party/ landlord.

Later on the opposite party/landlord filed Title Execution case No. 55 of 2017 before the Court of learned 3rd, Civil Judge (Junior Division) for execution of the decree passed in Title Suit No. 260 of 2016.

In Course of hearing of the execution proceeding, the petitioner herein appeared before the learned Executing Court in the said proceeding upon receipt of notice in such execution proceeding, claiming to be lawful occupier thereof. The petitioner filed Misc. Case No. 67 of 2018 in the Executing Court seeking stay of the execution proceeding arising out of the Title Execution Case No. 55 of 2017 in respect of the property involved in such execution proceeding.

By the impugned order dated February, 2, 2019, learned Executing Court allowed the application for stay filed on behalf of the present

petitioner subject to payment of occupational charges at the rate of Rs. 12,000/- per month.

On perusal of the impugned order, it transpires that while determining the quantum of occupational charges at the rate of Rs. 12,000 per month, learned Executing Court in Misc. Case No. 67 of 2018 had taken into consideration that the suit property was situated within the jurisdiction of Tollygunge, P.S., Kolkata- 700026. The occupational charges fixed taking into consideration, the physical position of the suit property.

The petitioner has challenged the said order determining the occupational charges at the rate of Rs. 12,000/- per month as excessive and exorbitant. It has been submitted that the petitioner has been paying rent of Rs. 220/- per month to the landlord for the portion of the suit property under his occupation.

However, at the time of advancing arguments, learned Advocate for the petitioner did not propound any reasoning on the basis of which the occupational charges fixed at Rs. 12,000/- per month by the learned Executing Court could be said to be excessive and exorbitant. The order impugned clearly stated that the occupational charges at Rs. 12,000/- per month was fixed by the learned Court in consideration of the situation of the property and its market value. No justification have

been advanced on behalf of the petitioner, that such determination of occupational charges by the impugned order are illegal and arbitrary. The view adopted by the learned Executing Court in the impugned order seems to be a plausible view. In the Revisional jurisdiction under Article 227 of the Constitution of India, to me, the revisional Court should not interfere with the plausible view taken by the learned Trial Court. No illegality or manifest impropriety has been brought forth in the order impugned at the behest of the petitioner herein.

Under such circumstances, I find no merit in the revisional application.

Accordingly, C.O.1217 of 2019 is thus dismissed without any order as to costs.

Stay order, if any, shall stand vacated.

Urgent Photostat certified copy, if applied for, be supplied to the parties upon compliance of all formalities.

(Md. Shabbar Rashidi, J.)