

D/L- 16
08/05/2025
Ct. No.-6
Aritra

C.O. 1538 of 2025

**Sri Prabal Kumar Kundu
Vs.
St. Joseph & Merry's School**

Mr. Tanmoy Mukherjee
Mr. Souvik Das
Mr. Soumava Santra

....for the petitioner

This application under Article 227 of the Constitution of India is at the instance of the plaintiff and is directed against an order being No.3 dated March 19, 2025 passed by the learned District Judge-in-Charge, District-South 24-Parganas in Ejectment Appeal No.7 of 2025. The ejectment suit filed by the petitioner herein was decreed on December 24, 2024.

Challenging the said decree the opposite party herein preferred an appeal being Ejectment Appeal No.7 of 2025. In the said appeal the opposite party filed an application for stay of operation of the judgement and decree passed by the learned trial judge.

The learned Judge of the First Appellate Court, by the order impugned, passed an order of stay on condition that the opposite party herein shall pay occupation charges at the rate of Rs.30,000/- per month with effect from the date of passing of the judgment and decree by the learned trial judge.

Mr. Mukherjee, learned advocate appearing for the petitioner submits that the market rate of rent at the said locality is much higher than the rate of occupation charges fixed by the learned Judge of the First Appellate Court.

After some argument, Mr. Mukherjee, learned advocate for the petitioner prays for leave to withdraw this application with liberty to approach the learned Judge of the First Appellate Court with an appropriate application.

In view of such submission CO 1538 of 2025 stands dismissed as withdrawn with liberty to the petitioner to file an appropriate application before the learned Judge of the First Appellate Court. If such an application is filed, the learned Judge of the First Appellate Court is requested to consider and dispose of the same in accordance with law after giving an opportunity of hearing to the respective parties.

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.)