

01.07.2025
Item no. 28.
Court No.6.
AB

C. O. 2309 of 2025

**Chandulal Singh
Vs
Samar Kumar Malakar & Anr.**

Mr. Sanat Kr. Biswasfor the Petitioner.

This application under Article 227 of the Constitution of India is at the instance of the defendant and is directed against an order no.10 dated May 19, 2025, passed by the learned Judge, Bench XIII, City Civil Court at Calcutta in Title Appeal No.48 of 2024.

By the order impugned, the application for stay of the execution case was allowed subject to payment of occupation charges.

Learned advocate appearing for the petitioner submits that the petitioner is in occupation of one room and the verandah, the total measurement of which is about 116 sq. ft. He submits that the quantum of occupation charges, which has been fixed by the learned Judge of the First Appellate Court, is an exorbitant one and the same should be reduced. He further submits that the property is also a dilapidated one.

The learned Judge of the First Appellate Court noted that the appellant/petitioner herein did not

produce any materials in support of his contention as to the market rate of rent of the property in question.

The respondents/opposite parties herein have produced the documents with regard to the valuation of the suit property.

The learned Judge, after considering the materials on record, assessed the occupation charges at Rs.35/- per sq. ft. After taking into consideration the area of occupation to be about 116 sq. ft., the learned Judge assessed the occupation charges for the decreetal property at Rs.4,060/-per month. Such an amount is a reasonable amount considering the locality in which the property is situated.

The learned Judge of the First Appellate Court also took note of the decision of the Hon'ble Supreme Court in the case of ***Atma Ram Properties (P) Limited Vs Federal Motors (P) Limited*** reported in ***(2005) 1 SCC 705*** as well as other decisions of this Hon'ble Court and directed the petitioner to pay occupation charges as a condition for passing an order of stay in the execution case.

This Court is not inclined to interfere with the quantum of occupation charges assessed by the learned Judge of the First Appellate Court sitting under Article 227 of the Constitution of India.

For such reason, C. O. No.2309 of 2025 stands dismissed.

There shall be no order as to costs.

(Hiranmay Bhattacharyya, J.)