

**IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION**

APPELLATE SIDE

CO No. 2558 of 2025

Dinesh Kumar Agarwalla Alias Agarwalla

Vs.

Sri Prabhat Kumar Mittal

Before: The Hon'ble Justice Apurba Sinha Ray

For the Petitioner : Mr. Sounak Bhattacharya. Adv.,
Mr. Sabyasachi Mondal, Adv.
Ms. Prajaaini Das, Adv.

CAV On : 28.11.2025

Judgment On : 04.12.2025

Apurba Sinha Ray, J. :-

1. By filing this Civil Revisional Application the decree-holder/petitioner has challenged the Order no. 112 dated 13.02.2025 passed by the Learned Civil Judge, Junior Division, 2nd Court, Alipore, South 24 Parganas in Title Execution Case No. 72 of 2007 whereby the learned Judge has rejected the prayer of the decree-holder for proceeding with the execution of the decree dated 16.01.2007 passed in Title Suit No. 463 of 1993 since the judgment-debtor did not pay the occupational charges as per condition of stay granted by the Hon'ble High Court by its Order dated 11.04.2016 in CAN No. 11457 of 2015 which was filed in SAT No. 193 of 2012. The Order no. 112 dated 13.02.2025 as aforesaid is taken into consideration. The learned Executing

Court rejected the application of the decree-holder on the grounds as herein below:-

"It appears from the affidavit of facts dt. 10.01.2025 filed by the Dhr that the Dhr furnished details of the occupational charges paid by the Jdr as per the order of the Hon'ble Court. However, from the statement so furnished, it appears that some of the challans reflect delays in depositing the occupational charges. There are some missing challans. In this present situation where the Jdr deposited the occupational charges in compliance of the order of the Hon'ble Court, although with some delays, this court does not find it proper and correct to proceed with the execution of the decree unless and until there is specific direction upon this court by the Hon'ble High Court at Calcutta."

2. The decree-holder/petitioner was directed to file an affidavit regarding the particulars of the months for which such occupational charges were not paid. In view of such direction the decree-holder /petitioner has filed a supplementary affidavit on 07.11.2025 containing that the judgment-debtor

did not pay occupational charges for several months and further there were delayed payments of occupational charges.

3. The Hon'ble Court by its order dated 11.04.2016 directed the judgment-debtor/appellant to deposit arrear occupational charges of Rs. 3,48,400/- (Rupees Three Lakhs Forty Eight Thousand Four Hundred) with the learned Executing Court and also directed the JDR to continue to deposit the current monthly occupational charges of Rs. 7,000/- (Rupees Seven Thousand only) within 10th day of each following month before the learned Executing Court. It is also mentioned in the said order that "*in the event, the petitioner deposits the above monthly instalments of occupation charges and the current monthly occupation charges within the time mentioned above, there shall be stay of all further proceedings of the said Title Execution Case No. 72 of 2007 till the disposal of the appeal. **However, it is made clear that in the event of any failure of the appellant either deposit any of the monthly installment of earlier occupation charges or the current occupation charges for any month within the time mentioned above, with the learned Executing Court, the interim order passed today shall stand automatically vacated, without any further reference of this Court.***"

4. It appears that in spite of service the respondent/judgment-debtor did not appear to contest the allegations made against him. As there are materials on record that the judgment-debtor did not comply with the

direction of this Hon'ble Court passed in SAT No. 193 of 2012 in letter and spirit the learned Executing Court can proceed with the execution proceeding for non-compliance of such order of the Hon'ble Court. Therefore, the learned Executing Court being Learned Civil Judge, Junior Division, 2nd Court, Alipore, South 24 Parganas is hereby directed to proceed with the execution of the decree dated 16.01.2007 immediately, if the allegations of delayed payment as well as non-payment of occupational charges as made out in the affidavit are found to be correct on examination of its record.

5. With this direction the relevant Civil Case being C.O. No. 2558 of 2025 is disposed of.

6. Urgent photostat certified copies of this Judgment, if applied for, be supplied to the parties on compliance of all necessary formalities.

(APURBA SINHA RAY, J.)