

12.06.2025

Mithun

List -D/L

Sl. No. 234.

Ct. No. 06.

CO 2372 of 2024

Anjum Shamsi & Ors.

-Vs.-

Subir Sircar

Mr. Kushal Chatterjee,
Mr. Debrup Choudhury

...for the petitioners

Mr. Chirantan Sarkar

...for the opposite party

The application under Article 227 of the Constitution of India is at the instance of the defendant and is directed against an order dated 7th of June, 2024 passed by the learned Chief Judge, City Civil Court, Calcutta in Title Appeal No.79 of 2023.

By the order impugned, Ejectment Execution Case was stayed subject to payment of occupation charges.

Mr. Chatterjee, learned Advocate appearing for the petitioner submits that the learned Judge of the First Appellate Court fixed the occupation charges by taking the area of the suit property to be 300 sq.ft. He submits that the measurement of the suit property is only 150 sq. ft.

He, however, submits that the petitioner has paid occupation charges in terms of the directions passed by this Court in this civil revision.

The learned Advocate appearing for the opposite parties vehemently opposes such submission of Mr. Chatterjee. He submits that the suit premises has a mezzanine floor and the total area of occupation is 300 sq. ft. He further submits that the petitioner has not paid the entire amount as directed by this Court in this civil revisional application.

The learned Judge of the First Appellate Court after considering the materials on record arriving at the factual finding that the area of the suit property was 300 sq. ft. and fixed the occupation charges at the rate of Rs.157 per sq. ft.

It has been uniformly submitted by the learned Advocate for the parties that the title appeal is on the verge of completion.

Considering the fact that the learned Judge of the First Appellate Court imposed a condition for grant of stay, this Court is not inclined to interfere with such exercise discretion by the learned Judge of the First Appellate Court.

For such reason, C.O.2372 of 2024 stands disposed of.

There shall be an order of stay of Ejectment Execution No.138 of 2023 pending before the 2nd Judge, Presidency Small Causes Court, Calcutta till the disposal

of Title Appeal No.79 of 2023 subject to the condition that the petitioner pays the occupation charges in terms of the earlier order passed in this civil revisional application.

No order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Hiranmay Bhattacharyya, J.)