

S/L 5
30.04.2025
Court No.17
SD

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION

CO 3650 of 2024
[Assigned]

Smt. Nirmala Sardar
Vs.
Smt. Mamata Saha & Ors.

Mr. Sounak Bhattacharyya
Mr. Sounak Mandal

... for the Petitioner.

Mr. Rajdeep Bhattacharya

... for the Opposite Parties.

The instant application under Article 227 of the Constitution of India is directed against the Order No.2 dated September 19, 2024 passed by the learned District Judge-in-Charge at Alipore, District: 24-Parganas (South) in *Title Appeal No. 115 of 2024*.

The petitioner had suffered a decree of eviction passed in *Title Suit No.83 of 2013* by the 3rd Court of learned Additional Civil Judge (Junior Division) at Alipore, District: 24 Parganas (South).

The petitioner, aggrieved by the said decree, has preferred the connected title appeal.

The appeal Court below, by the order impugned, has allowed the prayer of the petitioner for stay of the judgment and decree under appeal subject to payment of occupational charges at the rate of Rs.5,000/- per month with effect from the date of the said decree.

Learned advocate for the petitioner submits that the suit property consists of one room with mud walls and is in a dilapidated condition; as such, the rate of occupational charges fixed by the appeal Court is disproportionate. To demonstrate the condition of the suit property, he files photographs.

He further submits that the petitioner is working as a maid servant; as such, she does not have the financial capacity to pay occupational charges at the said rate.

Learned advocate for the plaintiff/opposite party submits that the suit property is at Kalighat, i.e. a prime location in Kolkata; therefore, the said rate of occupational charges is just and proper.

Heard learned advocates for the parties; perused the materials-on-record.

The suit property consists of one room with mud walls and tile shed having common user of bath and privy at premises no. 165/1A, Kalighat Road, P.S. Bhowanipore. It appears from the photographs produced by the learned advocate for the petitioner that the suit room is in a completely dilapidated condition.

Considering the condition of the suit property and the financial capacity of the petitioner, the rate of occupational charges is reduced to Rs. 1,000/- per month.

The petitioner is required to deposit the said amount in the bank account of the plaintiff/opposite party month by month within the seventh of each succeeding month for which it falls due. Subject to the said payment, the operation of the Judgment and Decree under challenge in the connected appeal shall remain *stayed* till the disposal of the said appeal. The first of such deposits is to be made within **May 7, 2025**.

The learned advocate for the plaintiff/opposite party shall supply the details of his client's bank account to the learned advocate for the petitioner in course of this week.

In the event the connected appeal fails, the plaintiff/opposite party would be entitled to recover the arrear occupational charges from the petitioner in accordance with law.

The appeal Court below is requested to expedite the disposal of the connected appeal and in doing so, shall not entertain the prayer of the parties for any unnecessary adjournment.

CO 3650 of 2024 is disposed of with the above terms without any order as to costs.

Parties to act on the server copy of this order duly downloaded from the official *website* of this Court.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)