

D/L. 9.
February 28, 2025.
MNS.

C. O. No. 3740 of 2024

Uttam Kumar Gupta
Vs.
Apurba Ghosh Roy

Mr. Sounak Bhattacharya,
Mr. Sounak Mondal,
Mr. Anirban Saha Roy

... for the petitioner.

Mr. Arif Ali,
Mr. Yusuf Ali Mirza

...for the opposite party.

1. The present application under Article 227 of the Constitution of India has been preferred against an order whereby the learned First Appellate Court directed the petitioner to withdraw the amount of occupation charges already deposited by the appellant in the Appellate Court as condition of stay and to pay the full occupation charges as directed by the Appellate Court to the respondent in the appeal, that is, the opposite party herein.

2. Learned counsel for the petitioner submits that an application for review of the said order of the Appellate Court has also been filed in the court below.

3. However, it is submitted that since the respondent/opposite party has been permitted to get the amount-in-question, it is for the respondent to withdraw the amount which has been deposited by the petitioner.

4. Upon hearing learned counsel for the parties, however, I do not find that any case has been decided against the petitioner by the impugned order. The said order merely directed the petitioner to withdraw the amount deposited by the petitioner himself in the appellate court as occupation charges, since the appeal arises out of an eviction decree, and to pay the entire amount payable to the respondent.

5. No rights of the petitioner have been affected as such by the said order, let alone any jurisdictional error having been committed.

6. Moreover, I find from an earlier order passed by a coordinate Bench of this Court in a previous civil revision that a similar challenge had been preferred, in which the portion of the appellate court's order directing the withdrawal of the amount deposited by the petitioner was not reversed.

7. Hence, I do not find any reason to interfere with the impugned order.

8. Accordingly, C. O. No. 3740 of 2024 is dismissed on contest without any order as to costs.

9. The recall/review application in the court below is, thus, automatically rendered infructuous.

10. Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)