

Sl.8 & 9
01.08.2025
Court No.6
BP

C.O. 4190 of 2024
With
CAN 1 of 2025
CAN 2 of 2025

Gopa Dutta
-versus-
Partha Sarathi Sengupta & Ors.

With
C.O. 4356 of 2024

Smt. Nandini Chanda & Anr.
Vs.
Smt. Gopa Dutta & Ors.

Ms. Jhuma Sen
Ms. Swastika Chatterjee
... for the petitioners
in C.O. 4190 of 2024
Mr. Rajdeep Bhattacharya
..for the opposite parties in
C.O. 4190 of 2024 and
the petitioners in C.O. 4356 of
2024

The order dated September 10, 2024 passed by the learned Additional District Judge, 14th Court, Alipore, South 24 Parganas in Title Appeal No. 01 of 2024 is under challenge at the instance of the appellant as well as the respondent in Title Appeal No.1 of 2024. C.O. 4190 of 2024 is at the instance of the appellant and C.O. 4356 of 2024 is at the instance of the respondent in the said appeal.

The appellant who is the defendant in the suit for eviction has challenged the aforesaid order on the ground that he is not liable to pay occupational charges

considering the fact that the parties are closely related with each other.

The learned advocate appearing for the petitioner in C.O. 4190 of 2024 submits that the rate of occupational charges fixed by the learned Judge of the 1st appellate court is an exorbitant one.

Mr. Bhattacharya, learned advocate appearing for the opposite parties in C.O. 4190 of 2024 and the petitioners in C.O. 4356 of 2024 submits that the appellant in the title appeal is enjoying a flat measuring about 630 sq.ft. at Bagha Jatin and the suit property is on the main road. He further submits that the learned Judge of the 1st appellate court directed the appellant to pay occupational charges with effect from the date of passing of the order though it is well settled that the appellant in order to enjoy an order of stay has to pay occupational charges with effect from the date of the decree.

It has been uniformly submitted by the learned advocates for the respective parties that pursuant to an order passed by Co-ordinate Bench on 7th February, 2024 the appellant has already deposited an amount of Rs. 50,000/- in compliance with the order passed by this Court.

It has been uniformly submitted by the learned advocate for the respective parties that 4th August, 2025 is the date fixed for hearing of the title appeal.

In view thereof, this Court is not inclined to enter into the issue as to whether the occupational charges fixed by the learned trial judge can be said to be a reasonable one or that the appellant is liable to pay occupational charges with effect from the date of the order passed in the appeal or from the decree against which the appeal has been preferred. The aforesaid issues are left open to be decided in future. Considering the fact that the appellant has already complied with the directions passed by the Co-ordinate Bench and 4th August, 2025 is the date fixed for hearing of the appeal, the aforesaid civil revisional applications being C.O. 4190 of 2024 and C.O. 4356 of 2024 are disposed of by requesting the learned Additional District Judge, 14th Court, Alipore, South 24 Parganas to take up the hearing of Title Appeal No. 1 of 2024 on the next date fixed i.e. on 4th August, 2025 and to take up the hearing of the appeal on consecutive dates subject to the convenience of the court and make an endeavour to dispose of the same as expeditiously as possible but preferably by the end of the month of August, 2025 without granting any unnecessary adjournments to either of the parties.

Accordingly CAN 1 of 2025 and CAN 2 of 2025 are also disposed of.

There shall be, however, 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.)