

21.02.2025
A. Bhar

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL APPLICATION
APPELALTE SIDE

C.O. 1507 of 2020

UNISYSTEMS PVT LTD
-Versus-
CHANDRA PRAKASH JHUNJHUNWALA

Mr. Syamal Chakraborty
Mr. Debajyoti Mondal ...for the petitioner.

Mr. Rahul Karmakar
Mr. Sourav Guchhait ...for the opposite party.

This application under Article 227 of the Constitution of India is directed against the Order dated 8-10-2020 passed by the Learned Civil Judge Senior Division 2nd Court at Howrah in Title Suit No-37 of 2012.

The Learned Trial Judge by Order dated 08-10-2020 was pleased to direct the defendant/petitioner to pay the arrear amount of rent along with 10% compound interest per annum upto 29.02.2020 which comes to Rs. 17,79,588.16 (Rupees Seventeen Lakh Seventy nine thousand five hundred Eighty-eight and Sixteen paisa).

The defendant/petitioner was also directed to pay current rent month by month before the Learned Court.

The matter was heard at length, and thereafter it was submitted by the Learned Advocates that the

parties have decided to resolve the dispute. Learned Advocate for the opposite party/plaintiff submits that his client is not claiming any compound interest on the arrear amount of rent. In view of the submission made by the Learned Advocate nothing remains in this application to be decided with regard to awarding of compounding interest on the arrear rent, in order dated 08/10/2020 passed by the Learned Trial Court. It is however made clear that this Court has not gone into the issue as to whether any month's rent is due and payable as of date. In the event there is any such due such deposit/payment should be made forthwith. Further the petitioner/defendant shall go on paying current rent month by month before the Learned Trial Court as directed in Order dated 08/10/2020. Only the direction for payment of compound interest shall not be enforced by the plaintiff/opposite party.

Learned Advocate for the petitioner has made submission that the petitioner be permitted to cross-examine P.W.1 as during pendency of this application the cross-examination of P.W. 1 was closed by refusing the prayer for adjournment.

Learned Advocate for the opposite party submits that the Learned Trial Court did not err in closing the cross-examination and the order closing the cross-examination is not under challenge in this application.

Upon perusing the Order dated 22-11-2024 passed by this Court in the instant application it appears that this Court granted liberty to the parties to seek adjournment before Learned Trial Court as the matter is sub-judice. The matter was fixed for hearing on 6.12.2024. Although the matter was fixed on 6/12/2024 and on other dates but it could not be taken up on those dates due to shortage of time and due to the fact that this Court sits singly only on Friday second half and rest of the week there is Division Bench. In the meantime the suit appeared before Learned Trial Court and the Learned Court after granting adjournment 28/11/2024 was pleased to refuse further adjournment on 13/12/2024. By Order dated 13/12/2024, Cross Examination of P.W. 1 was closed and 20/01/2025 was fixed for evidence of P.W. 2.

The matter was taken up by this Court on 17/01/2025, 24/01/2025 and 14/02/2025 and further proceedings before Learned Trial Court was stayed by Order dated 17/01/2025 for a period of two weeks which was later extended. Upon perusal of the order dated 13/12/2024 of Learned Trial Court it appears that the Learned Court assigned reasons for refusing adjournment and closing cross-examination of P.W. 1. However as Order dated 13/12/2024 is not under challenge no further observation with regard to

the validity of the said order should be made. The petitioner should be at liberty to make necessary application before Learned Trial Court for recalling P.W. 1 for the purpose of Cross-Examination for consideration and decision of Learned Trial Court.

Thus this Application under Article 227 of the Constitution stands disposed by granting liberty to the petitioner/defendant to make necessary application for recalling P.W. 1 in Title Suit No. 37 of 2012 pending before Learned Civil Judge Senior Division 2nd Court at Howrah. In the event such application is made the same shall be decided in accordance with Law prior to evidence of P.W. 2.

With regard to the obligation of paying rent or interest the observation made in the earlier paragraphs will apply. It is however made clear that this Court has not gone into the merits of the case and all points are kept open.

(Biswaroop Chowdhury, J.)