

*CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI*

Item No.11 & 12
11.09.2025
Court. No. 1
GB

CO 181 of 2025

Smt. Dolly Chowdhury & Anr.
Vs.
Smt. Devika Pradhan & Anr.

With

CO 182 of 2025

Smt. Devika Pradhan & Anr.
Vs.
Smt. Dolly Chowdhury & Anr.

*Mr. Rajat Das,
Ms. Srijana Thapa*

*...for the Petitioners
(in CO 181 of 2025).*

Mr. Deborshi Dhar

*...for the opposite parties
(in CO 181 of 2025)*

1. Both the civil revisional applications being CO 181 of 2025 and CO 182 of 2025 are heard together, as both the revisional applications arise out of the order dated August 26, 2025, passed by the learned Additional District Judge, 2nd Court at Siliguri in Title Appeal No.24 of 2024.
2. The plaintiffs are aggrieved because the learned judge has directed security deposit of Rs.20,00,000/- by the judgment debtor in lieu of stay of execution, but the valuation of the property was much more.

3. According Mr. Das, learned advocate for the petitioners, the amount to be secured should have been at a higher rate, considering the valuation statement which was filed before the learned appellate court. It is submitted that the said valuation report had not been challenged and as such, the security deposit was insufficient and it should commensurate with the valuation submitted by a licenced valuer.
4. Mr. Dhar, learned advocate appearing on behalf of the judgment debtor submits that the order does not record any reasons as to why the learned court directed deposit of Rs.20,00,000/- as security. There is no basis for arrival at such quantum. At best, the learned court should have directed payment of occupational charges at the market rent which the property should fetch at present.
5. In my opinion, the learned court ought to have given reasons as to why he deemed it fit to dispose of the stay application, upon directing deposit of Rs.20,00,000/- as security by the judgment debtor. The judgment debtor had suffered a decree of eviction in July 2024. The appeal was pending. In order to secure stay of operation of the judgment and decree, the quantum was directed to be deposited. The court finds that the valuation report remained

unchallenged and no evidence has been adduced by the judgment debtor in support of the actual market rent that the property would fetch.

6. Under such circumstances, the order impugned is set aside. The matter is remanded for fresh hearing of the application for stay by the learned Additional District Judge, 2nd Court at Siliguri. In the meantime, Rs.2,00,000/- shall be deposited before the learned trial Judge toward occupational charges, which shall be subject to further orders that may be passed by the learned appellate court. The amount will be adjusted accordingly. The parties shall be entitled to adduce evidence with regard to the market rent that the property would fetch at present. Not only the location and present condition of the building, but also the quality of the furniture, fixture, etc. shall be taken into account by the learned court while coming to a decision on the occupational charges to be paid by the judgment debtor.
7. The judgment debtor will file an additional affidavit incorporating the documents to disclose the market rent, within two weeks from date. The decree-holder shall file an objection to the same within one week after reopening of the court after the puja vacation. The valuation report and all documents that have been or will

be filed by the respective parties, shall be taken into account and the stay application shall be decided afresh, within a month.

8. Accordingly, the revisional applications are disposed of.
9. Parties are to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)