

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE**

**Present:
The Hon'ble Justice Debangsu Basak**

CO 192 of 2025

**Sri Dhanilal Roy & Anr.
Vs.
Suraj Buildcon Private Limited
with
CO 198 of 2025**

**Suraj Buildcon Private Limited
Vs.
Sri Dhanilal Roy & Anr.**

For the Petitioners in CO 192 of 2025 :Mr. Binod Kumar Chakravorty, Advocate
and Mr. Shashi Prakash Kanodia, Advocate
For the defendants in CO198 of 2025

For the respondent in CO 192 of 2025:Mr. Surojit Kr. Mitra, Ld. Sr. Advocate
and Mr. Debasish Mukhopadhyay, Advocate
For the Petitioner in CO 198 of 2025 Mr. Rajat Das, Advocate
Ms. Madhushri Dutta, Advocate
Mr. Rakesh Chakraborty, Advocate

Heard & Judgment on : November 18, 2025

DEBANGSU BASAK, J.:-

1. Two revisional applications are taken up for analogous hearing as they relate to Order No.48 dated August 28, 2025 passed in Title Appeal No.13 of 2022 arising out of Title Suit No.56 of 2019.

2. For the sake of convenience, the parties in the two revisional applications are referred to as plaintiff and defendants, in the manner as they were arraigned in the Title Suit No.56 of 2019.
3. CO 192 of 2025 is at the behest of the defendants in Title Suit No.56 of 2019 while CO 198 of 2025 is at the behest of the plaintiff therein.
4. Learned Advocate appearing for the defendants in Title Suit No.56 of 2019 submits that, the defendants are the owners of the immovable property concerned. The suit was contested on behalf of the defendants by one particular defendant. There is a *prima facie* finding recorded by a Civil Court that, the defendants are the owners of the immovable property concerned. However, the particular defendant who contested the Title Suit No.56 of 2019 filed a written statement through an Advocate purporting to acknowledge that the defendants were licensee in the suit property.
5. Learned Advocate appearing for the defendants submits that, the learned Trial Judge in Title Suit No.56 of 2019 proceeded to pass a decree on admission on the basis of such erroneous statement made in the written statement. He submits that, defendants preferred an appeal which is Title Appeal No.13 of 2022.
6. Learned Advocate appearing for the defendants submits that, the issue as to occupation charges payable by the defendants were taken up for consideration in Title Appeal No.13 of 2022. In the impugned order, the learned Appeal Court was pleased to fix a sum of Rs.60,000/- per month as the occupation charges.

7. Learned Advocate appearing for the defendants submits that, the defendants are persons with very small means of income. He draws the attention of the Court to the photographs of the property involved in the suit. He submits that, the learned Judge did not take into consideration the actual situation of the immovable property as also its present occupation or the capacity of such property to earn income.
8. Learned Advocate appearing for the defendants submits that, the learned Judge by the impugned order did not take into consideration the valuation report submitted on behalf of the defendants.
9. Learned Senior Advocate appearing for the plaintiff submits that, the market value of the immovable property is much higher. Occupation charges should be fixed at a sum of at least Rs.5,00,000/- per month. The defendants suffered a decree for eviction on August 11, 2022.
10. Being aggrieved by such decree of eviction, the defendants filed Title Appeal No.13 of 2022.
11. Issue of occupation charges as a condition for the grant of stay for execution of the decree was taken into consideration by the learned Appeal Court. On such issue, the learned Appeal Court granted the parties here on a number of dates of hearing. By the impugned Order No.48 dated August 28, 2025, the learned Appeal Court directed payment of Rs.60,000/- per month from the date of the decree as occupation charges. Learned Appeal Court granted instalment for payment of the arrears.

12. Records made available to the Court demonstrates that, both the parties produced materials for the purpose of calculation of the occupation charges before the learned Appeal Court. Learned Appeal Court, on perusal of such materials, arrived at a finding of occupation charges as recorded in the impugned order.
13. The suit property involved is about 3 cottahs of land situated in a prime locality in the city of Siliguri. The quantification of the occupation charges payable by the defendants cannot be said to be perverse.
14. Learned Appeal Court exercised discretion in fixing a condition for grant of stay of the decree for eviction. A defendant suffering a decree for eviction need not be granted an unconditional stay of the decree. The exercise of discretion in fixing a quantum of occupation charges as done by the learned Appeal Court cannot be held to be perverse exercise of discretion.
15. In such circumstances, I find no material irregularity in the impugned order warranting interference under Article 227 of the Constitution of India.
16. **CO 192 of 2025** and **CO 198 of 2025** are **dismissed** without any order as to costs.

(Debangsu Basak, J.)