

13.02.2026
Item No.46
BR

CO 3241 of 2023
Balaram Dharmestu Trust , Estate of Sree
Sree Vijay Raghabji Thakurji of Ayodhya ,
represented by its trustee Sri Shi8v Shankar
Tripathi @ Mohant Sri Sridhar Ramanujda
-vs-

A. Mukherjee & Co. Private Limited.

Mr. S.M.Rakshit
... for the petitioner
Mr. A.J. Sengupta,
Mr. M.Thakur
... for the O.P.

1. The revisional application has been preferred challenging an order being no. 23 dated 05.08.2023 passed by learned Judge, 6th Bench, Presidency Small Cause Court, Calcutta in Misc. Case No. 105 of 2023 arising out of Ejectment Suit No. 86 of 2021.
2. Vide the impugned order the learned trial Court on hearing the parties and considering the independent report placed by the petitioner directed the defendant/opposite party herein as follows:

“ The defendant/ petitioner is hereby directed to deposit arrears

of occupational charges @ Rs. 25,000/- per month for the period of 4.4.2023 to July 2023 (4 months) , totaling of Rs. 1,00,000/- (one lakh only) [Rs. 25,000 X 04 months] within 31st of August, 2023. Failing of any of the conditions will disentitle the petitioner/ defendant from enjoying the benefit of stay of all further proceedings of the execution case and no express order will be required to that effect.”

3. It appears that the said order has been passed after the Ejectment suit was decreed ex parte on 4th April, 2023.
4. In view of the fact that the defendant/o.p. herein has filed the misc. case under Order 9 Rule 13 CPC on the ground of non-service of summons and on hearing the learned counsels appearing for the parties and on perusal of the materials on record, it appears that the Ejectment suit is of the year 2021 and is still pending because of the misc. case.
5. Considering the said facts, this Court is not inclined to interfere

with the impugned order at this stage.

6. Accordingly as the misc. case for setting aside of the ex parte decree is still pending, the revisional application is hereby disposed of with the direction to the trial Court that the misc. case under Order 9 Rule 13 be disposed of expeditiously preferably within two months from the date of this order on hearing the parties by preponing the date, which has been fixed in the trial Court on the prayer of the parties and dispose of the same within the period specified. If in case the ex parte decree is set aside and the ejectment suit is taken for hearing by the trial Court, the plaintiff/petitioner shall be at liberty to pray for enhancement of the occupational charges before the trial Court and the trial Court shall make all endeavour to dispose of the said suit within six months thereafter .
7. Petitioner is at liberty to pray for withdrawal of the occupational charges deposited by the opposite party herein, which the trial

Court shall be at liberty to permit,
in accordance with law.

8. Urgent Photostat certified copy of
this order, if applied for be given
to the learned counsel for the
parties on usual undertakings.

(Shampa Dutt (Paul), J.)