

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE

APO/7/2024
WITH
CS/372/2014

DILIP KUMAR KHANDELWAL
VS
ESSJAY ERICSSON PRIVATE LIMITED

BEFORE:

The Hon'ble JUSTICE DEBANGSU BASAK

AND

The Hon'ble JUSTICE MD. SHABBAR RASHIDI

Date : April 6, 2026.

Appearance:

Ms. Sristi Barman Roy, Adv.

Ms. Pritha Basu, Adv.

Ms. Bhawna Parasramka, Adv.

...for the appellant.

Mr. Satadeep Bhattacharyya, Adv.

Mr. Uttam Sharma, Adv.

...for the respondent.

The Court: Appeal is directed against a judgment and decree dated October 4, 2023 passed in CS/372/2014.

By the impugned judgment and decree, the report of the Special Referee was set aside. The issue of quantification of mesne profit was remanded to the Special Referee for consideration afresh.

During the pendency of the appeal, the defendant offered to pay at the rate of Rs.45/- per sq. ft. for the area involved being 14,300 sq. ft. Defendant also offered to pay interest at the rate of 6% per annum.

Rent due is for 32 months. Area involved is 14,300 sq. ft..

Special Referee fixed mesne profit at the rate of Rs.51.50/- per sq. ft. The same was not accepted by the learned Trial Judge. According to the appellant, the rate of rent should be much higher.

Considering the location of the property concerned and considering the fact that, the suit is pending since 2014 and considering the fact that, the defendant is offering to pay mesne profit in instalments and considering the fact that, more than 2/3rd of the quantified mesne profit would be paid within May 15, 2026, we deem it appropriate to accept the offer of the defendant of mesne profit at the rate of Rs.45/- per sq. ft. for the total area of 14,300 sq. ft. for 32 months.

The total amount of mesne profit, therefore, payable for 14,300 sq. ft. at the rate of Rs.45/- per sq. ft. is Rs.6,43,500/- per month. For 32 months, it would be Rs.2,05,92,000/-.

Defendant will, therefore, pay the mesne profit of Rs.2,05,92,000/- along with interest at the rate of 6% per annum, commencing from April 15, 2026 until the amount is fully paid off.

In our view, in order to bring to an end the litigation, it would be appropriate that, a decree for mesne profit of Rs.2,05,92,000/- is passed as against the defendant. Defendant will pay a sum of Rs.1 crore on or before April 15, 2026. Defendant will pay a sum of Rs.50 lakhs on or before May 15, 2026. Defendant will pay the balance in instalments of Rs.2,72,554.61/- commencing from June 15, 2026 and payable on or before 15th of every succeeding month till March 15, 2028. In such process, the defendant will pay an aggregate sum of Rs.2,09,96,201.48/- as mesne profit to the appellant. Such sum is obviously inclusive of interest.

In default of payment of the first or the last instalment or any of the instalments, appellant will be entitled to mesne profit at the rate of Rs.45/- per sq. ft for the total area of 14,300 sq. ft for 32 months along with interest at the rate of 8% per month calculated on and from the respective dates of the month for which, the mesne profit was due and payable until realisation.

APO/420/2023 is decreed accordingly.

APO/7/2024 along with all connected applications are disposed of.

(DEBANGSU BASAK, J.)

(MD. SHABBAR RASHIDI, J.)

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AR (CR)