

Misc. Appeal No.111 of 2022
Present: Jayashree Banerjee, Chief Bench
Order No.2, dated 01.11.2022:

The case record is put up today on the basis of an application filed by the appellant. Appellant also files an application praying for passing an ad-interim order of stay on the impugned order dated 11.10.2022 passed by the Ld. Estate Officer in connection with Proceeding No.1385, 1385/R of 2013.

Ld. Counsel for the appellant is present and submits that the instant appeal has been filed against the order of the Ld. Estate Officer dated 11.10.2022 in the Proceeding No.1385, 1385/R of 2013.

Ld. Counsel submitted that the appellant is evicted by the order passed by the Ld. Estate Officer and in the said impugned order the Ld. Estate Officer has passed an order of eviction against the appellant in respect of three properties when admittedly one of the properties was never occupied by the appellant and at no point of time the said third property was let out to the appellant which is apparent from the report submitted by the Commissioner and the lease as well as licence deeds showing the properties let out to the appellant.

Ld. Counsel Mr. S. Banerjee appearing for the appellant also invited the attention of this Court to an order passed by the Estate Officer on 06.05.2015 wherein the Estate Officer observed,

“In my view, separate proceedings in respect of Godown No. SW-110 may be required to be initiated subject to production of documents from KoPTs side for the sake of convenience and natural justice. It is made clear that I have not decided anything on merit”.

This Court being satisfied that the appellant apparently did not let out the property to any third party and it also appears from the documents annexed with the stay petition that out of the three properties one property was never leased out to the appellant nor the appellant was licensee in respect of the third property where the Commissioner found an illegal occupant is enjoying the property for which the appellant cannot be held responsible. Moreover, occupational charges as has been directed to be paid is in respect of all three properties and further annexed documents show that appellant has cleared up to date lease rent and license fees in respect of the properties under his occupation.

In view of my above observation the impugned order is stayed for a period of three weeks, in the meantime, the appellant is directed to serve copy of the stay petition upon the respondents along with Memorandum of Appeal.

Let the matter come up for contested hearing on 21.11.2022.

Dictated & corrected by me,

Chief Judge

Chief Judge
City Civil Court, Calcutta.