

Title Appeal No.88 of 2025  
Present: Sri Abhijit Som, Chief Judge (WB01127)  
Order No.03, dated 04.02.2026:

Ld. Advocates of both sides are present before this Court.

The application for stay of the operation of the impugned judgement and decree passed by the Ld. Trial Court is taken up for hearing.

Ld. Advocate for the appellant submits that while dealing with the issue no(s). 3 and 5, the Ld. Trial Court has come to the decision that the defendant (present appellant) is defaulter of rent for the month of October, 2025. It is submitted that due to laches on the part of the Ld. Advocate for the appellant appeared in the trial Court, the rent challan for one month i.e. October, 2025 could not be filed. Moreover, the appellant being the tenant is entitled to get the protection of the proviso of sub-section 4 of Section 7 of the W.B.P.T Act and the said provision of law has not been appreciated properly by the Ld. Trial Court. Under these circumstances, the appeal is required to be heard at length and therefore a stay order of the impugned decree is required to be passed, otherwise it is submitted that the purpose of filing the appeal will be infructuous.

On the other hand the Ld. Advocate for the respondent has submitted that the appellant being the tenant has not complied the order of the court and did not deposit the admitted due amount as per the provision of Section 7 of the W.B.P.T Act. It is also submitted that having assailed the judgment of the trial Court the appellant herein has not categorically mentioned in the application for stay as to what prompted him to pray for stay of the operation of the impugned order. It is further submitted that the market value of the suit property has increased a lot and on the other hand the appellant/tenant is paying a paltry sum as rent amount.

Having considered the submissions of both side and on perusal of the impugned judgment this court is of the view that the appellant has good ground for preferring the instant appeal and the same is required to be heard at length. Therefore, an order of stay of the operation of the impugned judgment and decree may be passed for a limited period for the purpose of hearing of the appeal, otherwise the decree may be executed at any point of time and the appeal itself will almost be infructuous.

Hence, it is

Ordered

that the operation of the judgment and decree dated 15.11.2025 passed by the Ld. Judge, Bench-II, Presidency Small Cause Court, Calcutta in connection with Ejectment Suit No. 20 of 2021 is hereby stayed for the period of 12 weeks hence or till disposal of the appeal, whichever is earlier, subject to payment of occupational

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Contd. ...order No.03, dated 04.02.2026:

charge of Rs.2,000/- per month from the month of February, 2026.

The appellants shall go on paying the current occupational charges within 7th of next consecutive English calendar month by way of demand draft drawn in favour of the Respondent.

It is made clear that if the appellant fails to make payment of the current occupational charges as calculated by this court within the time mentioned herein before, the stay that is being granted shall stand automatically vacated.

Let a copy of this order be handed over to the Ld. Counsel for the appellant counter signed by the Bench Clerk for compliance.

Call for the T.C.R.

The matter shall appear on 07.03.2026 for further order upon receipts of the payment vouchers of occupation charge from the appellant/for hearing of appeal/awaiting T.C.R.

Dictated and corrected by me,

Chief Judge,

Chief Judge,  
City Civil Court, Calcutta.