

Title Appeal No. 24 of 2026
CNR No. WBHW01-001268-2026
Present: Subhash Kumar Kar
District Judge, Howrah
J.O. Code – WB00592

Order No. 02 dated 27.04.2026.

The record is put up today on the basis of a put up petition.
Respondent has taken the respective steps.

On the prayer of learned Advocate appearing for the appellant, the petition under Order 41 Rule 5 of the C.P.C. is taken up for hearing.

Heard learned Advocates for the both sides on the petition.

This application is made with a prayer for stay of operation of the judgement and decree dated 30.01.2026 passed by the learned Civil Judge (Junior Division), 2nd Court, Howrah in Title Suit No. 1887 of 2015 and it appears from the record that the learned Trial Court passed the decree for eviction of the appellant from the suit property in terms of the judgement and order dated 30.01.2026.

According to the ratio laid down by the Hon'ble Supreme Court in Atmaram's Case, the appellant is required to pay the occupational charge for staying the execution of a decree of eviction passed by the Trial Court.

At the time of hearing, learned Advocate appearing for the appellant submitted that the appellant had been paying rent of Rs. 60/- per month in respect of the suit property which is a tiled shed room and unless an order of stay is granted, the appellant will suffer irreparable loss and injury.

Learned Advocate appearing for respondent submitted that the suit property is situated at a very posh area at Shibpur P.S. and at a stone throwing distance from market, school, hospital etc. and the tentative rental value of the said area is very high and unless sufficient occupational charge is not fixed the respondents will deprive of the fruit of the decree. In support of his contention he has submitted one valuation sheet obtained from the office of the Registrar.

I have gone through the record and it appears from the valuation sheet that the property is measuring about 200 sq.ft and the market value of the property is 4,48,890/- and the set forth value is Rs. 1000/-.

On further consideration of the record it appears that the

present rent of the property is Rs. 60/- per month and the rent was paid upto the year 2014 and so far the present day is concerned the rental value of such premises in such area cannot be less than Rs. 1000/- per month and I am inclined to fix the occupational charge of the property at Rs. 1000/- per month which is payable from the date of the decree and hence, it is,

O r d e r e d

that the instant application under Order 41 Rule 5 of the C.P.C. is allowed on contest but without any cost and let the operation of the judgement and decree of Title Suit No. 1887 of 2015 be stayed on condition that the appellant shall pay occupational charge @ Rs. 1,000/- per month from the date of decree and he shall pay the occupational charge month by month within first seven days of each month and succeeding month thereafter from the month of May 2026 and the appellant is required to pay arrear occupational charge from the date of decree till the month of April, 2026 in a single installment. It is made clear that the order of stay shall be vacated automatically if the appellant fails to comply any of the condition imposed herein above without any further reference.

Thus, the stay application is disposed of.

Call for T.C.R.

To date i.e. 04.06.2026 for T.C.R.

Dictated & corrected by me.

D. J.

District Judge, Howrah.