

Misc. Appeal No. 166 of 2025
CNR NO. WBHW01-004587-2025

Present: Abhijit Som,
District Judge, Howrah.
J.O. Code – WB01127

Order No. 04 dated 12.09.2025.

Learned Advocate on behalf of the appellant moves an application for stay of operation of the impugned order passed by the Estate Officer. It is submitted that the statute provides the right of appeal and accordingly, the right is exercised by filing the instant appeal. It is stated that in the first page of the certified copy of the impugned order, the status of the appellant is mentioned as unauthorised occupant. Since the appellant is anticipating eviction by force at any time, an order of stay is sought for. It is submitted that stay may be granted by imposing any condition.

The respondent KoPT is contesting the application by filing written objection. Learned Advocate on behalf of the KoPT submits that the appellant has no authority to continue in the possession of the property. It is also submitted that the appellant is not a direct lessee of KoPT. He is allegedly holding a part of the property under the original lessee, the respondent no. 2. So, it is submitted that no equitable relief may be granted to the appellant.

It appears from the Form B that the present appellant has been arrayed as unauthorised occupant no. IX. No doubt, the appellant is under the order of eviction and accordingly, the appeal is filed. It is also found that a sum of Rs. 72,00,000/- and Rs. 14,00,000/- are recoverable from two separate plates.

Having considered the submission of both sides and on perusal of the impugned order, this Court is of the view that an order granting stay of the operation of the order of the Estate Officer may be passed for a limited period, otherwise the purpose of filing of the appeal would be frustrated.

Hence, it is

Ordered

that the order passed by the Estate Officer on 28.08.2025 in connection with Proceeding No. 2016, 2016/R, 2016/D of 2023 is hereby stayed for a period of 12 weeks hence, subject to deposit of occupational charge of Rs. 25,000/- per month in the Court in the name of KoPT/ respondent no. 1 with effect from September, 2025, to be paid by 7th day of each succeeding month.

However, the appellant shall not accrue any right in the event of deposit of occupational charge as directed by this Court.

It is made clear that in the event the present appellant fails to deposit the occupational charges as directed even for a single month the order of stay as passed by this Court shall stand vacated automatically.

With such observation, the stay application is thus disposed of.

It is, however, made clear that the respondent/KoPT is not permitted to withdraw such occupational charges as deposited by the appellant in the learned Trial Court except with the leave of the Court.

Let the case record be transferred to the Court of learned Additional District Judge, 4th Court, Howrah for hearing and disposal.

Fix 28.10.2025 for appearance before the learned Transferee Court.

Dictated & corrected by me.

D. J.

District Judge, Howrah.