

Both parties file their respective lawyer's hazira.

Respondent files written objection against the stay petition.

Today is fixed for hearing of stay petition filed by the appellant on 06.08.2025.

Ld. Advocate for the appellant and Ld. Advocate for the respondents are present.

The stay petition dated 06.08.2025 filed by the appellant is taken up for hearing.

Heard both sides.

Ld. Advocate for the appellant submits that a judgment and decree of eviction has been passed against the present appellant in respect of the shop room occupied by the appellant vide Judgment and decree dated 16.06.2025 passed by the Ld. Civil Judge, (Jr. Div), Lalbagh in Title Suit No. 308 of 2019 against which the present appeal has been filed by the appellant. He also submits that the appellant is still in possession of the tenanted room and if the stay is not granted the appeal will be frustrated and the appellant will suffer irreparable loss.

On the other hand Ld. Advocate for the respondent submits that the appellant failed to pay rent in respect of the tenanted room before the Ld. Trial Court and the appellant is possessing the suit room as trespassers after passing of judgment and decree against him by the Ld. Trial Court and therefore, no order of stay should be passed. He also submits that if the stay is granted in anyway a heavy amount may be fixed as occupational charge as the suit property is lying on the main road at Lalbagh market.

Perused the stay petition, written objection filed against the same and other materials lying in the record of appeal and also perused the trial court record.

It appears that the judgment and decree of eviction from the tenanted shop room has been passed against the appellant and the appellant is still in possession of the said shop room.

Considering the facts and circumstances, I think that if the operation of the impugned judgment and decree is not stayed there may be multiplicity of proceedings and there may be substantial loss to the appellant. At the same time if the appellant is continued to possess the said shop room inspite of the judgment and decree eviction against him he should have to deposit the security amount.

Considering the nature of the suit property and the location of the same and also taking into account the the status of the parties, I think that it will be just and proper to direct the appellant to deposit Rs.2,500/- per month from the date of passing of decree by the Ld. Trial Court as occupational charge so long the stay order remains effective or until further order.

Hence, it is

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ORDERED

that the stay petition dated 06.08.2025 filed by the appellant is hereby allowed.

Let the operation of the impugned judgment and decree dated 16.06.2025 passed in Title Suit No. 308 of 2019 by the Ld. Civil Judge, (Jr. Div), Lalbagh, Murshidabad is stayed until further order.

Appellant is directed to deposit Rs.2,500/- per month from the date of judgment and decree dated 16.06.2025 before the Ld. Trial Court, subject to deduction of the amount if any deposited after passing of said judgment and decree within seven days of the succeeding English Calender month for the month of which it is payable and arrear amount if any shall be deposited by 7th day of November, 2025.

The deposited amount shall not be disbursed until further order of this Court.

Fix 11.12.2025 for hearing of appeal.

Let a copy of this Order be sent to the Ld. Civil Judge, (Jr. Div.), Lalbagh, Murshidabad for information and necessary action.

Dict. & Corrted. by me.

Addl. Sessions Judge, 2nd Court
Lalbagh, Murshidabad.

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Lalbagh, Murshidabad.