

IN THE COURT OF DISTRICT JUDGE, NORTH 24 PARGANAS, BARASAT

Present :
Sri Santanu Jha (JO Code: WB-00399),
District Judge, North 24 Parganas

Title Appeal 03 of 2026

Order No.05, dated 02.05.2026

Date is fixed for filing W/O and hearing of the stay petition.

Appellant/defendant no.1 files hazira. Respondent No.1 also files hazira.

Appellant/defendant no.1 has preferred the instant Appeal against a decree of eviction dated 11.12.2025 passed by the learned Civil Judge (Junior Division), 1st Court at Barasat in Title Suit No.718 of 2015 and in connection there with the appellant/defendant no.1 has also filed a petition praying for stay of operation of the judgement and decree under challenge.

The said petition is taken up for hearing.

The respondents have contested the prayer for stay by filing the written objection dated 02.05.2026 submitting therein that the appellant/defendant no.1 has failed to show any urgency and has not come in clean hands for which the stay petition should be rejected.

Perused both the stay petition and the written objection and also heard the learned advocates from rival sides.

The learned advocate for the appellant/defendant no.1 has submitted that the purpose of the Appeal will fail if no stay is granted and if the appellant/defendant no.1 is evicted from the suit property and for that the stay petition should be allowed. It is also submitted that the execution proceeding has been initiated and therefore, the prayer should be considered.

In response to such submissions, the learned advocate for the respondents argued that the appellant/defendant no.1 is trying to frustrate the decree and has made a frivolous petition which is liable to be rejected. It has been further submitted by the learned advocate for the respondents that without awarding occupational charges no stay of the decree should be

passed and therefore, the petition for stay if at all allowed, should be allowed with occupational charges in favour of the decree holder.

Decisions reported in 2004 SCC Online SC 1583 and 2023 AIR CC 1907 have been referred and the same have been carefully perused.

Having heard both sides, it is observed that the very purpose of preferring the Appeal will be frustrated if no stay of operation is granted in favour of the appellant/defendant no.1 and therefore, the prayer for stay appears to be justified and appropriate. However, the appellate Court should also be mindful of the fact that the Appeal should be disposed of as quickly as possible so that the fruits of the decree is not jeopardized due to such delay.

As regards the submission for occupational charges, this Court observes that a specific prayer by the decree holder / respondents is necessary and as such, the respondents are given liberty to submit a specific application to that effect. Definitely, the decree holder is entitled to occupational charges in respect to the suit property in a suit for eviction, but the quantum of the occupational charges should be decided only after appropriate perusal of relevant materials to arrive at a justified and reasonable quantum of such occupational charges. Therefore, at this stage, the prayer for stay is allowed for a limited period and accordingly, it is

ORDERED

that the operation of the impugned order and judgement dated 11.12.2025 passed by the learned Civil Judge (Junior Division), 1st Court at Barasat in Title Suit No.718 of 2015, be stayed till next date.

The decree holder-respondents are given liberty to submit an application for occupational charges as discussed above, on the next date and therefore, the same may be taken up for consideration giving a chance to the appellant/defendant no.1 to file her written objection against such application, if any.

Let the instant Appeal be transferred to the 4th Court of Ld. Addl. District Judge, Barasat for disposal.

Accordingly, the record be transmitted to the said Court.

Be it noted further that the learned Transferee Court will take up and dispose of the issue of awarding occupational charges, if at all prayed for, in accordance with law, and also dispose of the Appeal as expeditiously as possible.

Fix 02.06.2026 for appearance.

Dictated and corrected by me,

Sd/-
District Judge,
North 24-Parganas

Sd/-
District Judge
North 24-Parganas