

EXECUTION : 123 OF 2023
(CNR No. WBPS01-000537-2023)
(JO CODE No. WB01229)

Order no. - 13
Dt. 30.07.2024

Today is fixed for hearing of the stay petition dated 16.03.2024, W.O, if any in the meantime.

Both parties file hazira.

Now the case record is taken up for hearing the petition dated 16.03.2024 filed by the Jdr.

Heard Ld. Advocate for the Jdr. who submitted before this court that the present Jdr. has filed a Misc. Case being no. 05 of 2024 with a prayer for recalling the exparte order passed by this court in Ejectment Suit No. 173 of 2016 and the defendant of the said ejectment suit, after receiving summons has made appearance and contested the same but due to serious illness of himself and also his wife and thereafter, during the Covid - 19 period, the Jdr./defendant of the said suit could not take any step and thereafter, the Jdr. got information about Execution Case No. 123 of 2023 wherefrom he heard that the exparte order was passed on 12.04.2021 in favour of the decree holder and the Jdr. has initiated the Misc. Case for setting aside the exparte order and hence prayed before this court for stay of the Execution case no. 123 of 2023 till restoration of the Ejectment Suit No. 173 of 2016.

Heard Ld. Advocate for the opposite party/decreed holder who after filing written objection stated that the decree was passed on 12.04.2021 and the Jdr. occupying the decretal property without paying any occupational charges and prayer for stay can only be granted after making payment of adequate compensation.

Decree holder files affidavit regarding no stay by any appellate forum and also valuation of the decretal property.

Let the same be kept with the record.

Considered. Perused the instant petition, written objection and other materials on record.

On perusal of the same, it appears that the exparte decree was passed in Ejectment Suit No. 173 of 2016 and one Misc. Case being no. 05 of 2024 has been filed by the Jdr. for setting aside the exparte order and the instant execution case has been initiated on the basis of the exparte decree and the very object of filing of said Misc. Case will be infructuous if the execution of the said decree will not be stayed.

Considering the same, the stay petition filed by the Jdr. for stay of Execution Case no. 123 of 2023 and Misc. Case No. 18 of 2024 is hereby allowed subject to payment of occupational charges.

The petitioner/Jdr. is hereby directed to pay occupational charges of Rs. 20,000/- per month from the date of decree.

Petitioner/Jdr. is directed to pay arrear occupational charges in six equal installments and the first installment will be paid within 30 days from the date of this order and the rest of the installment will be paid in every 30 days interval.

Jdr. is also directed to deposit current occupational charges from the date of this order.

To 19.09.2024 for further order.

D/C by me:
Sd/-

Judge, Bench – II,
Presidency Small Cause Court,
Calcutta.

Sd/-

Judge, Bench – II,
Presidency Small Cause Court,
Calcutta.