

P.P. Appeal -01 of 2021
CNR No.-WBSP01-001316 -2021
JO Code -WB1277

Order No. 04 dated 11.02.2021

Both sides are present by filing haziras.

Written objection filed on behalf of the respondent.

Let it be kept with the record.

Ld. Advocate for both sides are present.

Ld. Advocate for the appellant moves the application for stay filed in connection with the instant appeal.

It is submitted from the side of the appellant that until and unless this Ld. Court is pleased to stay the impugned order challenged in this appeal then the appellant shall be seriously prejudiced and the corpus of the lis involved in the instant appeal shall lose its legal existence. On the basis of the submissions the Ld. Advocate for the appellant has prayed for the order of stay so as to protect the interest of the appellant till the final adjudication of this appeal.

Ld. Advocate for the respondent has strongly opposed the prayer for stay of the appellant and has submitted that if at all the appellant is entitled to an order of stay of the impugned order then the appellant must shoulder the responsibility of making some payment to the respondent as occupational charges in connection with his possession of the premises in question. Ld. Advocate for the respondent has also submitted that in another appeal another Court of competent jurisdiction passed the order of stay by fixing occupational charges in respect of a property situated in the same address as the present premises by adopting a procedure for assessment based on the present market value of the premises.

After taking into consideration the submission of both sides and on perusal of the pleadings, I feel that in order to keep alive the issues agitated in this appeal till the adjudication of the appeal, an order of stay of the impugned order can be passed in favour of the appellant, subject to payment of a sum as occupational charges by the appellant to the respondent. Accordingly, I direct that the appellant shall be entitled to an order of stay of the impugned order, subject to payment of a monthly sum of Rs.60,000/- as occupational charges to the respondent. Such payment is to be made within the fifth day of every month and such payment is to be made by the appellant since

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the date of filing of this appeal. It is made clear that the order of stay of the impugned order shall continue till the disposal of the appeal. It is made clear that non-payment of the occupational charges will entail the respondent to pray for vacating the order of stay.

Fix **17.04.2021** for hearing of the appeal. LCR in the mean time.

D/C by me
Sd/- P. P. Chakravorty
ADJ, 3rd Court, Alipore

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