

IN THE COURT OF DISTRICT JUDGE,
SOUTH 24-PARGANAS AT ALIPORE

P.P. Appeal No. 20 of 2026

Present : Sri Biswarup Bandyopadhyay (WB01133) District Judge

UNITED TYRES PVT. LTD.

... APPELLANT

VS.

SHYAMA PRASAD MOOKHERJEE PORT AND ANR.

... RESPONDENTS

Order No. 05, dated 15.07.2026

The date is fixed for hearing of the appeal, the application for stay along with determination of occupational charge.

Respondents file hazira.

Appellant files a Reply to the Affidavit of the respondents dated 17.06.2026 along with an application seeking extension of the interim order of stay. *Copies supplied and objected to.*

The record is taken up for hearing on the point of determination of occupational charge payable by the appellant in respect of the suit premises.

Ld. Advocate for the respondents commenced his argument by drawing the attention of this Court to Affidavit filed by the respondents on 03.06.2026. Ld. Advocate submitted that the suit property measures around 11377.20 sq. mt. and the rate payable per 100 sq. mt. is Rs. 7661/-. Ld. Advocate for the respondents also drew attention of this Court to Written Objection dated 03.06.2026 and to the Annexure 'R-1'. Ld. Advocate for the respondents submitted that the appellant is presently in unauthorized occupation of the suit premises and, as such, the appellant is liable to pay rent as per the SoR and not on a whimsical and arbitrary manner. Ld. Advocate submitted as on date, an amount of Rs. 14,43,72,913.14 is due against Plate No. D 274/21 and Rs. 81,37,976.45 is due for Plate No. SF 241.

In reply, Ld. Advocate for the appellant submitted that the instant appeal has been preferred against the impugned order as the Ld. Estate Officer held the appellant took lease of the suit property from the respondent no. 1 vide Deed of Lease dated 29.10.1962 and such lease was renewed vide Deed of Lease dated 06.01.2000 with effect from 30.09.1991. Ld. Advocate further submitted that during course of hearing before the Ld. Estate Officer, the respondent no. 1 did not raise any point regarding enhancement of rent. Ld. Advocate further submitted that there is no provision in the Public Premises (Eviction of Unauthorized Occupant) Act of 1971 about any occupational charge and the rent mentioned is according to the sum of money agreed by and between the parties at the time of entering into the contract. Ld. Advocate also submitted that the subject matter in the instant P.P. Appeal is regarding subletting and not enhancement of rent. Ld.

Advocate drew attention of this Court to Clause No. 3 at page no. 12 and page no. 53 of the Calcutta Gazette. Ld. Advocate also submitted that the documents as submitted by the Port authorities in determination of occupational charges are not applicable in the matter.

In reply, Ld. Advocate for the respondents submitted that presently the appellant is an unauthorized occupant in respect of the suit premises as per Section 2(g) of the Act and the respondent reserves the right to reply regarding enhancement of rent at the time of hearing of the appeal.

Heard the submissions of Ld. Advocates for both the sides.

Perused the record and the materials annexed herewith.

Upon hearing the submissions made on behalf of Ld. Advocate for both sides and upon perusal of the record, it appears that vide the impugned order, the Ld. Estate Officer directed the appellant to pay Rs. 15,143/- as rental dues in respect of the suit property. It has been admitted by both parties that the appellant is continuing such payment from time to time and the respondent is collecting the same as compensation. There are averments and rival averments made by parties regarding determination of occupational charges and the appellant also contended as to whether the concept of occupational charge is at all applicable in the Act of 1971.

Considering the foregoing submissions, this Court is of the view that when rival contentions exist regarding the determination of occupational charge, this Court is of the view that it would be subserve the ends of justice if the appeal itself is heard and disposed of expeditiously keeping in mind the spirit of the Act of 1971. However, till such time, the payment being made by the appellant to the respondent no. 1 shall continue.

Hence,

it is,

ORDERED

that the application for stay is disposed of on contest, however, subject to payment of rental dues by the appellant in favour of the respondent no. 1.

The interim order of stay passed on 03.06.2026 by this Court in the instant P.P. Appeal is made absolute till disposal of the appeal, however, subject to payment of rent by the appellant in favour of the respondent to the tune of **Rs. 15,143/- (Rupees Fifteen Thousand One Hundred and Forty Three)** per month.

The appeal is, otherwise, ready for hearing.

As such, the Ld. Estate Officer is directed to transmit the T.C.R being Proceeding No. 944 and 944/R of 2008 in respect of the instant P.P. Appeal by the next date.

Let a copy of this order be sent to the Ld. Estate Office for information and compliance.

Fix **07.08.2026** for hearing of the appeal at 3:00 P.M. and awaiting T.C.R.

Dictated & corrected by me

Sd/- Sri Biswarup Bandyopadhyay

District Judge

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