

**IN THE COURT OF THE DISTRICT JUDGE, SOUTH 24-PARGANAS**

**P.P. Appeal No.25/27**

**Order No.6, dated 7.11.2017**

The application for stay of operation of the impugned order dated 29.6.2017 passed by learned Estate Officer is moved. Learned Advocate for the appellant submits that the learned Estate Officer in the impugned order has assessed an astronomical figure of Rs.42,42,252/- as damages without any rhyme and reason. He further submits that the learned Estate Officer on 17.6.2016 referred the said matter to the Estate Manager of KoPT for active consideration regarding grant of leave but the Estate Manager has not yet considered the same and the learned Estate Officer without waiting for any verdict of Estate Manager passed the impugned order arbitrarily. He has prayed for stay of operation of the impugned order till disposal of the instant appeal.

Learned Advocate for the KoPT has vehemently opposed such submission stating that the appellant/CESC is enjoying the prime industrial land measuring 3846 sq. metre at Taratala Road, the occupational charge of which has been assessed by the Tariff Board @ Rs.4,45,000/- per month but the appellant/CESC is making payment of only Rs.1,78,000/- per month. He submits that the rate of rent has been assessed by the Tariff Board and the appellant did not challenge the rate of assessment. He submits that as on this date more than Rs.53 lakhs is lying arrear including interest. He submits that the respondent/KoPT has no objection if substantial amount is assessed as occupational charge and the appellant pays the entire arrear amount as on this date.

Perused the impugned order and other relevant documents. This is the first appeal and equity demands that there should be a stay of operation of the impugned order but the appellant must pay a lump sum amount to liquidate a substantial portion of the arrear amount and also to continue to deposit a reasonable occupational charge per month during the period of appeal. On such condition, stay may be granted.

Hence, O R D E R E D,  
that the instant application for stay of operation of the impugned order till disposal of the appeal is allowed on condition that the appellant must deposit Rs.22 lakhs (Rupees twenty two lakhs) as part payment of the damages as assessed by the learned Estate Officer by 24.11.2017 and also to deposit Rs.2,50,000/- (Rupees two lakhs fifty thousand) per month as

occupational charge within first seven days of the following month regularly and in default of payment of occupational charge for any month, the stay will be vacated automatically. For the time being, let the impugned order be stayed till 27.11.2017. To date for further order.

Dictated & corrected by me

District Judge

Sd/ S. Kundu

District Judge