

Title Appeal 07 of 2025

Order No.11, Dated 31.03.2026.

Today is fixed for hearing of the petition dated 03.02.2026.

Both parties file hazira.

Thereafter, petition dated 03.02.26 filed Under Section 151 of CPC is taken up for hearing, as filed by the appellant.

Respondent files written objection.

Heard both sides at length.

Ld. Advocate on behalf of the appellant in course of hearing has placed reliance upon the following decisions as passed by Hon'ble High Court at Calcutta in 1. **FMAT 76 of 2025 and IA No.CAN/1/2025** and 2. **CO No.1460 of 20220**.

Perused the said petition wherein the appellant has stated that the respondent and appellant entered into an Agreement for Leave and Licence dated 15.08.2013 in respect of the suit property which commenced from 15th August, 2013 upto 14th July, 2014 under terms and conditions as enumerated in the said Agreement at a licence of Rs.4,800/- only per month and the respondent/defendant paid licence fees to the appellant/plaintiff upto the month of October, 2013. Since, November, 2013 the respondent/defendant did not pay any licence fees to the appellant/plaintiff, but is in possession and enjoying the suit property. Hence, this instant petition.

Perused the WO, wherein the respondent/defendant has denied all the contentions as raised by the plaintiff/appellant and stated that the appellant cannot claim any occupational charges against the respondent/defendant.

Heard Ld. Advocate on behalf of both sides.

This Court is not oblivious of the well settled legal position that nobody can be permitted to enjoy another's property without compensating the owner of that property unless of course the owner does not want such compensation. It clearly appears from the observation of Ld. Trial Court passed in connection with TS-109/2021, out of which this instant appeal arose that the plaintiff/appellant is the owner of the suit property and the status of the defendant has been adjudicated as that of a trespasser.

Under such facts and circumstances, I am inclined to allow this instant application dated 03.02.2026.

Considering the prime location of the suit property which is situated in the heart of Kolkata and all the essential amenities like road, railway station, banks, hospital, colleges, market place etc. are nearby and proximate to the suit premises a monthly occupational charge to the tune of Rs.4,800/- per month will suffice the purpose.

Hence, it is,

O r d e r e d

that the stay application filed by the appellant is hereby allowed on contest but without any order as to costs.

The respondent/defendant shall deposit in Court Rs.4,800/- *per mensem* towards occupational charges of the suit premises from the date of filing of this appeal ie from 17.05.2025 till disposal of this appeal. The payment for every month shall be made within 10th day of the said month for which the same falls due in accordance to the English calender month. The arrear amount of occupational charges shall be paid within **30.04.26**.

Fix 07.05.2026 for hearing of appeal.

D/c by me,

ADJ, FTC-II, Sealdah.

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