

05.08.24
Sl-53
Ct.33
(S.R.)

SA 159 of 2017
With
CAN 1 of 2017 (Old No.CAN 2083 of 2017)

State of West Bengal & Anr.
v.
M/s Shivani Properties Pvt. Ltd.

Mr. Anirban Ray, Ld. G.P.
Mr. Biswabrata Basu Mallick, AGP
Mr. Debraj Sahu
Mr. Debangshu Dinga ... for the appellants.

Ms. Sahini Chakraborty
Mr. Rahul Karmakar
Mr. Suman Majumder ... for the respondent.

In re: CAN 1 of 2017 (Old No.CAN 2083 of 2017)

The Learned Advocate for the appellants submitted to have filed an application being No. CAN 1 of 2017 (Old No.CAN 2083 of 2017) for stay of the Judgment and Decree passed by the Learned 2nd Bench of City Civil Court in Title Appeal No. 15 of 2016 as well as the Execution Proceeding in view of the Execution Case No. 08 of 2017 pending before the Learned Trial Court.

It is further contended that the respondents have proceeded with the execution of the impugned Judgment and Decree passed by the Learned City Civil Court, 2nd Bench, Calcutta in Title Appeal No.15 of 2016 and has also sought for police help which has been allowed, by this Hon'ble Court.

It is further submitted, in case the execution

process is effectuated the intent and object of the instant appeal will be infructuous and accordingly prayed for an order of stay as aforesaid.

The Learned Advocates for the respondents opposed the prayer for grant of stay as aforesaid, emphasizing the averments expressed in the affidavit-in-opposition, the aforesaid CAN application being CAN 1 of 2017 to the extent of non-payment of occupational charges by the appellants since the year 2016 and agitated for payment of occupational charges.

The execution of the impugned order and judgment dated 21st December, 2016 passed by the Learned City Civil Court, 2nd Bench, Calcutta be stayed till 19th September, 2024 subject to payment of Rs.10,000,00/- as occupational charges on *ad hoc* basis.

The appellant/State is directed to deposit the aforesaid amount by 27th August, 2024 before the office of the Learned Registrar General, High Court at Calcutta.

The Registrar General, High Court at Calcutta is directed to deposit the said amount in a Nationalized Bank in an auto renewable fixed deposit for a temporary period during the pendency of the instant appeal.

Accordingly, the application for stay being **CAN 1 of 2017 (Old No.CAN 2083 of 2017)** is disposed of.

The report of the department dated 5th July, 2024 be kept on record. It appears from the report that the

LCR has been obtained from the concerned Trial Court.

Paper book is to be prepared prior to the next date of hearing.

Next date be fixed on 19th September, 2024 at 2.00 p.m. for hearing.

(Ananya Bandyopadhyay, J.)