

Item No. 06

Ct 09

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05.03. 2026

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

SA 159 of 2017

With

**IA NO: CAN 1 of 2017 (Old No: CAN 2083 of 2017)
CAN 2 of 2026**

The State of West Bengal & Anr.

Vs

M/s. Shivani Properties Private Limited

Mr. Sirsanya Bandopadhyay, Sr. Standing Counsel,
Mr. Akash Dutta.

... for the appellant/state.

Mr. Saptansu Basu, Sr. Advocate.
Mr. Rajat Dev Sharma.

... for the respondent.

Learned advocates for the parties are present.

Heard learned advocates for the parties.

Learned advocate for the appellant/state moves this application being CAN 2 of 2026 and draws attention to the order dated 05.08.2024 in which Learned Co-ordinate Bench of this Court was pleased to direct the appellant/state to pay ad hoc occupational charges of Rs.10,000,00/- for the period of 04.05.2016 till date of passing of the order. The order was complied with by the appellant. The interim order of stay was till 19th September, 2024 and thereafter it expired. Although ad hoc deposit is made by the appellant but thereafter till today as the monthly occupation charges is not fixed, the appellant

have not paid the same. Learned advocate for the appellant submits that they are ready and willing to pay occupational charges to be fixed by this Court but the stay of the execution proceeding be granted till disposal of the appeal.

Mr. Saptansu Basu, Learned Senior Advocate appearing on behalf of the plaintiff/respondent submits that in view of the decision of the Hon'ble Supreme Court in the case of Atma Ram Properties (P) Ltd. vs. Federal Motors (P) Ltd. reported in (2005) 1 SCC 705, the Hon'ble Supreme Court observed that occupational charges at the market rate should be paid from the date of passing of the decree. Mr. Basu, further submits that the direction was for *ad hoc* payment and monthly occupation charges is not yet fixed.

In the facts and circumstances, this Court is of the view that in order to fix reasonable occupation charges, it is necessary to consider the area, the location, the age of the suit property and the rent prevailing in the said area where the suit property is situated.

I thus, appoint Mr. Meghnath Dutta, Advocate, Phone No. 9830175672 as Special Officer to conduct an enquiry in the suit property upon notice to both the appellants and the respondent and their learned advocates.

The Learned Special Officer shall visit the suit property and take the photograph of the premises both inside and outside the area of suit premises, the age of the suit premises and the rent prevailing in the adjacent buildings in that area. Upon causing the enquiry, the Learned Special Officer shall submit the report. The remuneration and cost of the Learned Special Officer shall be borne by the both parties equally.

In the event the parties agree with regard to the measurement, by a surveyor, appointment may be made for that said purpose at the cost to be borne equally by the parties. The enquiry shall be conducted and completed on or before 20th March, 2026 and a report shall be submitted on 24.03.2026.

Let this matter appear for report on 24.03.2026 at 4.00 P.M.

The execution case shall not be proceed till 27th March, 2026.

The Learned Special Officer shall be entitled to a remuneration of 600 GM to be shared equally by the parties.

Although, Mr. Basu, for the respondent submits that rent of the particular premises has already been fixed in another proceeding by this Hon'ble Court such point can be taken at the time of hearing of the application.

(Biswaroop Chowdhury, J.)