

51. 16.09.2025
Court No.06.

(Pritam)

CO 3380 of 2025

Dilip Kayal.

-Vs.-

Surath Kumar Paul & Ors.

Mr. Asit Baran Raut,
Ms. Ishita Raut,
Mr. Tuhin Subhra Raut,
Mr. Asit Kumar Chowdhury.

....for the petitioner.

1. This is an application under Section 227 of the Constitution of India and is directed against the order dated August 30, 2025 passed by the learned Civil Judge (Junior Division) Additional Court, Sealdah in Ejectment Execution Case No.31 of 2025. By the order impugned, court bailiff was directed to execute the writ by breaking open the padlock, if necessary.
2. Mr. Raut, learned advocate appearing for the petitioner submits that September 19, 2025 is fixed for hearing of the stay application in the Ejectment Appeal No.4/2025. The decree for eviction was passed on May 15, 2025. The suit property comprises of three bedrooms with two verandahs and kitchen, courtyard both and privy on the ground floor on the premises situated within Cossipore Police Station, Calcutta-700 002.

3. Petitioner has suffered a decree of eviction and has preferred an appeal under Section 96 of the Code of Civil Procedure. But, it further appears from the record that September 19, 2025 has been fixed for execution of writ. If during the pendency of hearing of the stay application, the decree is executed and the petitioner is dispossessed from the suit property, the petitioner will suffer irreparable loss and injury. For such reason, this court is inclined to pass interim order subject to certain condition.
4. The petitioner is directed to serve a copy of this application upon the opposite parties through registered speed-post with acknowledgement due and file affidavit-of-service to that effect on the next date.
5. There shall be an order of stay of further proceeding in the Ejectment Case No.31/2025 pending before the learned Civil Judge, Junior Division, Additional Court, Sealdah, South 24 Parganas till the end of the month of December, 2025 or until further orders, whichever is earlier subject to the condition that the petitioner shall pay a consolidated amount of Rs.30,000/- to the plaintiff/opposite party on or before September 25, 2025.
6. It is, however, made clear that in the event the said amount is not deposited within the time-limit mentioned hereinbefore, the order of stay shall stand automatically vacated.

7. It is, however, made clear that this court has only directed a consolidated amount to be paid on account of occupation charges and the learned Judge of the Appellate Court while deciding the application for stay shall be free to fix the rate of occupation charges after giving an opportunity of hearing to the learned advocates for the respective parties and in accordance with law without being swayed by the fact that this court directed the petitioner to pay a consolidated amount of occupation charges.
8. List this matter in the Monthly List of December under the heading "Motion".

(Hiranmay Bhattacharyya, J.)