



2025:CHC-OS:257-DB

ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
ORIGINAL SIDE

IA NO: GA/1/2024
APOT/54/2024
WITH
CS/19/2022

SHARAD GOENKA
VS
TARIT MITRA & ORS.

BEFORE
The Hon'ble Justice I.P. MUKERJI
-And-
The Hon'ble Justice BISWAROOP CHOWDHURY
Date: 20th March, 2024

Mr. Utpal Bose, Sr. Adv.
with Mr. Mainak Bose,
Mr. Naresh Balodia &
Mr. Samrat Saha, Advs.
...for the appellant.

Mr. Sakya Sen with
Mr. Sukrit Mukherjee &
Ms. Somali Bhattacharya, Advs.
...for respondent.

Order in terms of prayer (a) of the stay petition.

The appellant is the occupier of premises no.1, Leonard Road, Kolkata – 700 022. The area under occupation is more than 4,000 sq.ft. The respondents have instituted a suit against the appellant in this court (CS/19/2022) for eviction and other reliefs.

The appellant/defendant filed an application under Section 8 of the Arbitration and Conciliation Act, 1996 before the learned single judge pleading an alleged arbitration agreement which governs the lessor/lessee or landlord/tenant relationship between the parties and asking for reference of the disputes between the parties to arbitration. According to the respondents, the appellant is a trespasser and there is no arbitration agreement between the parties.



The learned single judge, by the impugned judgement and order dated 30th January, 2024, rejected the Section 8 application.

Hence this appeal.

A substantial question has been raised. It has to be resolved in appeal.

We admit the appeal dispensing with all formalities.

As the respondents are represented by learned counsel, issuance and service of the notice of appeal are dispensed with.

Advocate-on-record for the appellant is directed to file an informal paper book by 19th April, 2024, serving a copy thereof on advocate-on-record for the respondents at least seven days before the date of hearing of the appeal.

List the appeal for hearing on 1st May, 2024 fairly at the top.

The last rent paid by the appellant was Rs.44,000/- per month, in April 2021.

We direct the appellant to pay the arrear rent or occupation charges which have accrued till today assessed at Rs.15,00,000/- ad hoc without prejudice to the rights and contentions of the parties. This sum of Rs.15,00,000/- is to be paid in three equal monthly instalments of Rs.5,00,000/- each in April, May and June 2024 by the 7th of each month. Current occupation charges at the rate of the last paid rent of Rs.44,000/- per month shall also be paid by the appellant without prejudice to the rights and contentions of the parties punctually by the 7th of each month in advance except March which shall be paid by 31st March, 2024.

Mr. Sakya Sen, learned counsel appearing for the respondents, submits that according to the agreement relied upon by the appellant, the rent was revisable at the rate of 10% every three years and that the appellant should be directed to pay higher monthly occupation charges.



We grant liberty to the respondents to take out an appropriate application claiming such sum. In that application, the basis for such claim must be clearly disclosed.

The stay application (GA/1/2024) is disposed of.

As affidavits were not invited, the allegations contained in the application are deemed not to be admitted.

(I.P. MUKERJI, J.)

(BISWAROOP CHOWDHURY, J.)