



OD - 6

APDT/6/2023
With
CS/12/2013
IA No.GA/1/2023
GA/2/2023

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
ORIGINAL SIDE

NATIONAL INSURANCE COMPANY
LIMITED

-Versus-

THE HANUMAN ESTATES LIMITED

BEFORE :
THE HON'BLE JUSTICE SOUMEN SEN
And
THE HON'BLE JUSTICE UDAY KUMAR
Date : 19th June, 2023

Appearance :
Mr. Debjyoti Dutta, Adv.
Mr. Arijeet Doss Mullick, Adv.
...for the appellant.

Mr. Sabyasachi Chowdhury, Adv.
Ms. Urmila Chakraborty, Adv.
Mr. Amit Meharia, Adv.
Ms. Paramita Banerjee, Adv.
Ms. Subika Paul, Adv.
...for the respondent.

GA/1/2023:

The Court : There is a delay of 70 days in filing the
appeal.



The delay being sufficiently explained, we condone the delay of 70 days in filing the application for condonation of delay. The delay is allowed.

APDT/6/2023 & GA/2/2023:

This appeal is arising out of an adjudication made by the learned Single Judge towards mesne profits. The learned Judge assessed the mesne profits at the rate of Rs.89 per sq.ft.

The learned counsel for the appellant submits that the appellant has clearly stated in the present petition that taking note of all relevant factors, the rate of rent cannot be more than Rs.70 per sq.ft. Our attention is drawn to paragraph 21 of GA/2/2023.

Mr. Sabyasachi Chowdhury, learned Advocate representing the decree-holder has submitted that as on date a sum of Rs.8,54,87,169.88 is due towards the mesne profits.

It appears that the principal decretal dues in terms of the judgement of the learned Single Judge would be Rs.6,08,91,724.88.

In view of the stand taken by the appellant in the stay petition, the amount towards mesne profits would not be



less than Rs.4 crores calculated on the basis of the statement made in paragraph 21 of GA/2/2023.

Under such circumstances, we direct the appellant to pay a sum of Rs.4 crores to the decree-holder within four weeks from date. The respondent/decreed-holder shall accept the said amount without prejudice to its rights and contentions in the appeal. The balance decretal dues shall be deposited with the learned Registrar, Original Side, within four weeks thereafter. In default, the execution proceeding may commence.

In the event the sum of Rs.4 crores is paid to the decree-holder within a period of four weeks from date, there shall be a stay of operation of the decree till the disposal of the appeal. However, there shall be an unconditional stay of operation of the impugned decree for a period of four weeks. Liberty to apply in the event the balance amount is not deposited within the stipulated period.

Accordingly, GA/2/2023 is disposed of.

Ms. Paramita Banerjee, Advocate for the respondent, waives service of notice of appeal upon the respondent. The appeal is ready as regards service.



The appellant shall file requisite number of informal paper book prepared out of Court within eight weeks from date upon serving copies thereof on the respondent.

Settlement of index and all other formalities are dispensed with.

List the appeal being APDT/6/2023 after ten weeks.

(SOUMEN SEN, J.)

(UDAY KUMAR, J.)

As.