

30th June,
2025
(AK)
03-04

**F.A. 5 of 2019
IA No: CAN 2 of 2025
With
F.A. 4 of 2019**

Gouranga Chandra Saha
Vs.
Barin Burman and others

Mr. Saumyen Datta
Mr. Sudhir Kumar Sadhukhan
Ms. Moumita Basak
...for the appellant.

Mr. Sounak Mandal
Mr. Anirban Saha Roy
...for the respondents.

1. The present application has been filed for withdrawal of the occupation charges deposited by the appellant in terms of an interim order passed in connection with the appeal.
2. One of the two appeals arose out of a suit by the present appellant for permanent injunction on the ground that the appellant is a tenant in respect of the suit premises, which was dismissed.
3. The case of the appellant was that the respondents are not the landlord of the appellant.
4. On the other hand, the respondents had also filed a suit for eviction, which was decreed by the impugned judgment and decree, giving rise to the present appeal.
5. Upon hearing both parties, this court had allowed the appeals, thereby dismissing the eviction suit of

the respondents and decreeing that of the appellant.

6. Learned counsel for the appellant submits that since the stand of the appellant, that the respondents are not the landlords of the appellant, has been vindicated, the respondents were not entitled to the occupation charges even during the pendency of the appeal.
7. Learned counsel appearing for the respondents, however, submits that the respondents are entitled to the occupation charges, which were granted by way of condition for the stay obtained by the appellant. As such, since the occupation of the suit premises was actually enjoyed by the appellant during the relevant period, no question arises of permitting the appellant to withdraw the deposited amount.
8. On the prayer of the respondents, the respondents are directed to file their affidavit-in-opposition within a fortnight from date. Reply thereto, if any, shall be filed within a week thereafter.
9. The application shall be listed on July 23, 2025 for hearing under the same heading.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)