

Sl.11
07.07.2026
Court No.6
BP

C.O. 2068 of 2026

Sri Pintu Paul @ Pintu Pal
-versus-
Sri Sib Prosad Mukherjee alias
Shiva Prasad Mukherjee

Mr. Debasis Kar
Mr. Arka Tilak Bhadra
Ms. Paramita Mukherjee
..for the petitioner

Mr. Kushal Chatterjee
Mr. Tirtharaj Ghosh
Mr. S. Chowdhury
..for the opposite party

This application under Article 227 of the Constitution of India is at the instance of the defendant and is directed against an order dated 9th April, 2026 passed by the learned Civil Judge (Junior Division), 2nd Court at Barrackpore in Title Suit No. 38 of 2022.

By the order impugned the application under Order 7 Rule 11 of the Code of Civil Procedure filed by the petitioner herein stood rejected.

The learned advocate appearing for the petitioner submits that the plaint fails to disclose any cause of action. In support of such contention the learned advocate appearing for the petitioner draws the attention of the Court to paragraph 7 of the plaint and submits that the date of accrual of the cause of action is vague as only the day and the month has been mentioned therein and not the year.

Heard Mr. Chatterjee, learned advocate for the plaintiff/opposite party.

After going through the plaint this Court finds that the opposite party filed a suit for eviction under the provisions of Section 6 of the West Bengal Premises Tenancy Act, 1997. In paragraph 6 of the plaint there is reference of issuance of a notice under Section 6(4) of the 1997 Act and it is the case of the opposite party in the plaint that the notice has been duly served directing the petitioner to vacate the suit property from the month of August, 2022. It is now well settled that the plaint is to be read as a whole. Though the learned advocate for the petitioner may be right in contending that in paragraph 7 of the plaint the year of the accrual of the cause of action has not been mentioned. Upon reading the plaint as a whole it is evident that the cause of action as pleaded in the plaint accrued on and from 1st September, 2022.

The learned trial judge has rightly observed that the plaintiff has right to sue and the other points of objection i.e. limitation, service of notice to quit and other points raised by the defendant in the application under Order 7 Rule 11 of the Code of Civil Procedure has to be decided after a trial. The learned trial judge applied the correct legal test for deciding an application under Order 7 Rule 11 of the Code of Civil Procedure. The order impugned does not suffer from any infirmity warranting interference under Article 227 of the Constitution of India.

Accordingly, C.O. 2068 of 2026 stands dismissed.

There shall be, however, no order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Hiranmay Bhattacharyya, J.)