

Sl.13
08.07.2026
Court No.6
BP

C.O. 2093 of 2026

Sri Debasish Neogi
-versus-
Sumit Bhattacharyya & Ors.

Mr. Abhijit Ray
Mr. Santu Nandy
..for the petitioner

This application under Article 227 of the Constitution of India is at the instance of the defendant and is directed against an order being no. 22 dated 8th May, 2026 passed by the learned Judge, 2nd Bench, Presidency Small Causes Court at Calcutta in Ejectment Suit No. 386 of 2022.

By the order impugned the application under Section 151 of the Code of Civil Procedure read with Section 7(1) and Section 7(2) of the West Bengal Premises Tenancy Act, 1997 filed by the substituted defendant was disposed of upon holding that the same is not maintainable.

The learned advocate appearing for the petitioner submits that after the death of the father of the petitioner, the petitioner intends to comply with the provisions of Section 7(1) of the 1997 Act. For such reason, the petitioner filed an application under Section 7(1) of the 1997 Act read with Section 151 of the Code of Civil Procedure. He submits that the petitioner has been substituted in place and stead of the original defendant in view of the provisions of Order

22 Rule 4 of the Code of Civil Procedure and, therefore, the defendant is entitled to take the defence that was available to the original defendant.

The learned trial judge after perusing the case record found that the original defendant filed an application under Section 7(1) and 7(2) of the West Bengal Premises Tenancy Act, 1997. The application under Section 7(1) of the said Act was disposed of by an order dated 25th January, 2023 and the application under Section 7(2) of the said Act is pending adjudication before the learned trial judge.

In the light of the aforesaid finding the learned trial judge has rejected the application filed by the petitioner under Section 7(1) and 7 (2) of the 1997 Act read with Section 151 of the Code of Civil Procedure being not maintainable. The application under Section 7(2) filed by the original defendant is still pending. The learned trial judge was right in holding that the substituted defendant cannot file a fresh application under Section 7(2) of the West Bengal Premises Tenancy Act upon the death of the original defendant. There is no infirmity in the order impugned warranting interference under Article 227 of the Constitution of India.

C.O. 2093 of 2026 stands disposed of with the above observations.

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.)