

08.12.2021
(S/L-13)
Ct.-18
(Susanta)

(Via Video Conference)

C.O. 382 of 2019
With
IA No. CAN 1 of 2019 (Old CAN 5883 of 2019)

Chandan Bhunia
-Vs-
Smt. Shipra Addhya & Anr.

Mr. Bikash Goswami,
.... For the Petitioner.

Mr. Ankit Agarwal,
Ms. Awtriya Mukherjee
... For the Opposite Parties.

**RE: IA No. CAN 1 of 2019
(Old CAN 5883 of 2019)**

This is an application for extension of interim order passed on February 5, 2019.

The learned advocate for the plaintiffs/opposite parties submits that the interim order since expired long back the learned Trial Judge is proceeding with the disposal of the suit and it has reached to the stage of argument.

In view of such development, instead of extending the interim order, the revisional application is taken up for final disposal.

C.O. 382 of 2019

The defendant in a suit for eviction is the petitioner of the present revisional application under Article 227 of the Constitution of India

which is directed against the order dated September 13, 2018 passed by the learned Civil Judge (Senior Division) Chandannagar, District-Hooghly in the said suit being Title Suit No. 344 of 2017.

The petitioner in the said suit filed an application for rejection of the plaint of the said suit on the ground that the rate of rent of the suit property is Rs. 5000/- (Rupees five thousand) per month payable according to Bengali Calendar month as such in terms of Section 3(e)(ii) of the West Bengal Premises Tenancy Act, 1997 the said suit is not maintainable.

The learned Trial Judge by the order impugned has dismissed the said application.

On perusal of the plaint it appears that although the admitted rate of rent is Rs.5,000.00 (Rupees five thousand) only per month payable according to Bengali Calendar month and the suit was filed upon determination of the tenancy of the petitioner by a notice but it is not clear whether the suit is under Section 6 of the West Bengal Premises Tenancy Act, 1997 or not.

That being the position and in view of the fact that the suit has reached to the stage of

argument this Court is not inclined to interfere with the order impugned.

However, the challenge of the petitioner as to the maintainability of the said suit on the aforesaid ground deserves consideration.

The learned Trial Judge, therefore, is requested to consider the said issue at the time of disposal of the suit.

It is made clear that this Court has not gone into the merit of the said issue, the learned Trial Judge shall decide the same in accordance with law.

C.O. 382 of 2019 is disposed of with the above terms without any order as to costs.

In view of the disposal of the main revisional application the connected application being IA No. CAN 1 of 2019 (Old CAN 5883 of 2019) for extension of interim order has become infructuous and dismissed accordingly.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)