

(15)
04.08.2021
(p.jana)

**IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION**

(Via Video Conference)

CO No. 510 of 2020

**Rabindranath Das
-versus-
Subhasish Choudhury & ors.**

Mr. Dipankar Pal,
Ms. Ankita Dey,

Mr. Pinaki Dhole, ... for the petitioner.
 ... for the opposite party.

The defendant in a suit for eviction under Section 6 of the West Bengal Premises Tenancy Act, 1997(hereinafter referred to as the 'said Act' in short) is the petitioner of the present revisional application under Article 227 of the Constitution of India which is directed against the order dated January 14, 2020 passed by the 1st Court of learned Civil Judge (Junior Division), Malda in O.C. no. 51 of 2017.

The learned Trial Judge by the order impugned has disposed of an application under Section 7(1) of the said Act.

Mr. Dipankar Pal, learned advocate appearing on behalf of the petitioner submits that the petitioner is claiming title over the suit property but under a wrong advice without comprehending the purport, had filed the said application. He, however, submits that the order impugned cannot be faulted if the said application stands but the very application when was filed by the petitioner under misconception, the order impugned cannot be sustained.

Mr. Pal alternatively submits in the event the present application is found to be not maintainable, his client is willing not to press the said application but opportunity may be given to him to raise the said issue before the learned Trial Judge.

The propriety and legality of the impugned order cannot be questioned merely on the ground that the petitioner never intended to file the application which has been disposed by the said order.

However, the alternative submission of Mr. Pal is considered and allowed.

C.O. 510 of 2020 is dismissed as not pressed without any order as to costs.

It is made clear that this order will not prevent the petitioner to ventilate his grievances before the learned Trial Judge in accordance with law.

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

(Biswajit Basu, J.)