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17.09.2021
(p.jana)

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION

(Via Video Conference)

CO No. 639 of 2021

Sri Pintu Das

-versus-

Smt. Chabi Mukherjee

Mr. Jiban Ratan Chatterjee,

Mr. Tarun Kumar Aich,

Ms. Tanusri Sur,

... for the petitioner.

Ms. Susmita Saha Dutta,

Mr. Niladri Saha, ... for the opposite party.

The plaintiff in a suit for ejectment is the petitioner of the present application under Article 227 of the Constitution of India which is directed against the order dated January 08, 2021 passed by the learned Civil Judge (Junior Division) at Bidhannagar, 24 Parganas (North) in the said suit being Ejectment Suit No. 20 of 2012.

The defendant/opposite party filed applications under Sections 7(1) and 7(2) of the West Bengal Premises Tenancy Act, 1997 (hereinafter referred to as the said Act, in short) in the said Ejectment suit along with an application for condonation of delay in filing those applications.

The plaintiff/petitioner also filed an application in the said suit questioning the maintainability of the said application on the ground that without depositing the admitted arrear rent, the defendant cannot maintain an application under Section 7(2) of the said Act of 1997.

The learned Trial Judge by the order impugned has dismissed the said application of the plaintiff, holding that the said application is not supported by affidavit or even verified and the issue sought to be canvassed in the said application can very well be

raised at the time of hearing of the said applications filed by the defendant under the said Act of 1997.

Mr. Jiban Ratan Chatterjee, learned Senior Counsel on behalf of the plaintiff/petitioner submits that the application under Section 7(2) of the said Act of 1997 is not maintainable on the face of it as it would be evident from the record that the said application is not preceded by deposit of admitted arrear rent by the defendant/opposite party, therefore, the learned Trial Judge is not justified in dismissing the said application filed by the petitioner.

The learned Trial Judge has decided to consider the issue of maintainability of the said applications filed by the defendant/opposite party in course of hearing of the said applications, the issue of maintainability since is in-built in deciding the said applications, this Court does not find any irregularity in adopting such course in disposing the said applications.

It is informed that November 23, 2021 is the next date fixed for hearing of the said applications, the learned Trial Judge is requested to decide the said applications expeditiously, preferably within a period of three weeks from the said date without granting any unnecessary adjournment to either of the parties.

CO 639 of 2021 is disposed of with the above terms without any order as to costs.

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.)