

27th July, 2021
(AD 41)
(SKB)

**C.O. 1317 of 2021
(Via Video Conference)**

**Sanjay Sen
Versus
Tapan Kumar Adhya and others**

Mr. M. Rahman,
Mr. Sankar Paul

... for the petitioner.

Mr. Ashok Bhattacharyya

... for the opposite parties.

Learned counsel for the petitioner contends that the trial court acted without jurisdiction in rejecting the petitioner's application under Sections 7(1) and 7(2) of the West Bengal Premises Tenancy Act, 1997 on the premise that the Supreme Court had held the said section to be inapplicable to the relevant provisions of the 1997 Act.

Learned counsel contends that the said judgment of the Supreme Court, reported at 2020(1) I.C.C. 664 (Bijoy Kumar Singha Vs. Amit Kumart Chemariya and others) was passed after filing of the application under Section 5 of the Limitation Act and the ratio therein, as such, could not be applicable to the petitioner's application, which was filed prior to the said judgment.

Learned counsel for the petitioner further contends that even if Section 5 of the Limitation Act was not applicable, the court ought to have taken into consideration the provisions of Section 14 of the 1997 Act while discounting the delay.

Learned counsel appearing for the plaintiffs/opposite parties, by placing reliance on the aforesaid reported judgment of the Supreme Court, submits that the Supreme Court categorically laid down the law that, in that event no deposit was made and/or application filed under Section 7(1) or 7(2) of the 1997 Act, there was no scope of Section 5 of the Limitation Act being attracted.

Upon hearing learned counsel for both sides, it is evident from the impugned order itself that the trial court acted well within its jurisdiction in rejecting the application under Section 5 of the Limitation Act, since the judgment of the Apex Court, in so far as the ratio relied on by the trial court is concerned, lays down on the latest law on the subject.

Hence, there is no material irregularity and/or illegality pertaining to the jurisdiction of the trial court in the present case.

Accordingly, C.O. 1317 of 2021 is dismissed on contest.

There will be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)