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SK
Ct. No. 18
27.01.2021

**C.O. No. 1816 of 2019
(Via Video Conference)**

**Anima Senapati & Ors.
Vs.
Atanu Mallick**

Mrs. Rima Das,
Mr. Dhananjay Banerjee ... For the petitioners.

Mr. Amitava Pain,
Mr. P. P. Mukhopadhyay,
Mrs. Manideepa (Paul) Roy ... For the opposite party.

The present application under Article 227 of the Constitution of India is at the instance of the defendants in a suit for eviction and is directed against the Order No. 45 dated April 6, 2019 passed by the 1st Court of learned Civil Judge, (Junior Division), at Chandernagore, District. Hooghly.

The learned Trial Judge by the order impugned has dismissed an application filed by the petitioners under Section 7 (2) of the West Bengal Premises Tenancy Act, 1997 (hereinafter referred to as the 'said Act' in short) for not depositing the admitted arrear rent and consequently struck the defence of the petitioners against delivery of possession under Section 7(3) of the said Act.

The issue involved in the present revisional application is that whether the deposit of admitted arrear rent is a condition precedent to maintain an application under Section 7(2) of the said Act.

The said issue in view of the judgment of the Hon'ble Supreme Court in the case of ***Bijay Kumar Singh & Ors.***

Vs. Amit Kumar Chamariya & Ors., reported in **(2019) 10 SCC 660**, is no longer res integra.

Deposit of admitted arrear rent is, therefore, must to maintain an application under Section 7(2) of the said Act.

The learned Trial Judge, therefore, has not committed any jurisdictional error in dismissing the said application under Section 7(2) of the said Act for not depositing admitted arrear rent.

Whether the suit property is situated within the area where the said Act extends is the other issue raised in the present revisional application.

The State Government by the notification bearing No. 4182-1 A III/IM-18/04 dated December 30, 2004, has extended the said Act to the area where the suit property is situated. The said issue is, therefore, answered in affirmative.

The revisional application for the aforesaid reason fails.

C.O. 1816 of 2019 is dismissed.

No order as to costs.

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.)