

23 08.9.2021

WPLRT 140 of 2015

Ct-16

**Sri Amalendu Jana
Vs.
The State of West Bengal & Ors.**

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Mr. Ashim Kumar Routh
.... For the Petitioner

Mr. Tapan Kumar Mukherjee, Ld. AGP
Mr. Somnath Naskar
.... For the State

The instant writ petition is at the instance of a tenant and is directed against an order dated July 7, 2015 passed by the Learned First Bench, West Bengal Land Reforms and Tenancy Tribunal in O.A(P)-3388/12 (LRTT).

It is the case of the writ petitioner that he paid rent to the landlord till December 2009 and the landlord issued rent receipt in his favour. The writ petitioner sent the rent to the landlord for the month of April 2011 by money order dated May 03, 2011, which returned with the endorsement "refused". The writ petitioner thereafter approached the Rent Controller for depositing the rent by filing an application under Section 21 of the West Bengal Premises Tenancy Act, 1997 which was registered as HRC 139/11/97. The Rent Controller by an order dated 13th September, 2012 rejected the prayer for depositing the rent as the tenant did not send the rent by Money Order within the time limit specified in Section 21 of the said Act.

The writ petitioner challenged the said order before the learned Tribunal.

The learned Tribunal by the order dated July 7, 2015 rejected the said application upon holding that the tenant did not tender rent by money order within the stipulated time limit and also that the tenant filed the instant HRC Case No. 13/2011/1997 by totally

suppressing the fact of dismissal of the earlier case being HRC No. 24/10/1997 by an order dated January 20, 2011.

Mr. Routh, the learned advocate for the petitioner argued that the Rent Controller as well as the learned Tribunal failed to appreciate that the writ petitioner sent the rent by Money Order within the specified time period and upon refusal by the landlord to accept the Money Order, applied before the Rent Controller within the stipulated time period.

We have heard the learned advocates for the parties and perused the materials on record.

The writ petitioner/tenant claims to have sent the rent for the month of April, 2011 by Money Order but the said money order returned to him on 03.05.2011. But the application under Section 21 of the said Act is silent as to the date of return of the money order to him.

The date of return of the Money Order to the tenant is the starting point of limitation for filing the application under Section 21 of the said Act.

The Rent Controller as well as the learned Tribunal held that the writ petitioner failed to send the rent by Money Order and file the application within the stipulated time limit. The writ petitioner could not demonstrate before us that such concurrent findings of fact suffer from perversity.

Since the tender of rent as well as the filing of the application before Rent Controller was not in accordance with the provisions laid down in Section 21 of the West Bengal Premises Tenancy Act and also that the petitioner suppressed the fact of dismissal of the earlier HRC case before the rent controller, we do not find any reason to interfere with the order dated July 7, 2015 passed by the Tribunal.

Accordingly, WPLRT 140 of 2015 stands dismissed without, however, any order as to costs.

Urgent photostat copy of this order, if applied for, be given to the parties upon compliance of all formalities.

(Hiranmay Bhattacharyya,J.)

(Soumen Sen, J.)