

08.04.2021
(S/L-130)
Ct.-18
(Susanta)

(Via Video Conference)

C.O. 1347 of 2020

Smt. Madhumita Mondal & Anr.
-Vs-
Smt. Janki Jaiswal

Mr. Asis Kumar Das,
Mr. Suman Chattopadhyay,
..... For the Petitioners.

Mr. Netai Chandra Saha,
..... For the Opposite Party.

The revisional application under Article 227 of the Constitution of India is at the instance of the defendant in a suit for ejectment and is directed against order dated March 11, 2020 passed by the 7th Court of Learned Civil Judge (Senior Division), Alipore, 24-Parganas (South) in Ejectment Suit No. 12 of 2017.

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 for not depositing the admitted arrear rent in terms of Section 7(1) thereof and consequently struck out the defence of the petitioners against the delivery of possession.

The petitioner in the application under Section 7(2) of the said Act of 1997, inter alia, has raised a dispute with regard to the existence

of the relationship of landlord and tenant between the parties to the suit.

Such a dispute when raised non-compliance of Section 7(1) of the said Act of 1997 is of no consequence so long the said dispute is decided.

The order impugned therefore is not sustainable and is accordingly set aside.

The learned Trial Judge is directed to decide the application under Section 7(2) of the said Act afresh in accordance with law.

It is made clear that this Court has not gone into the merit of the said application.

In view of the mandate of Section 7(2) of the said Act of 1997 that such an application is required to be disposed of as soon as possible within a period not exceeding one year from the date of receipt of the application, the learned Trial Judge is requested to dispose of the said application within a period of four weeks from the date of communication of this order without granting any unnecessary adjournment to either of the parties.

C.O. 1347 of 2020 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 with all requisite formalities.

(Biswajit Basu, J.)