

06.06.2022
Item No.14
Ct. No.7
CHC
(disposed of)

C.O.1170 of 2022

Goutam Dutta
Vs.
Tarun Kumar Mitra & anr.

Mr. Abhirup Chakraborty
...for the petitioner

Mr. Deepak Kr. Basu,
Mr. Suman Kr. Mukherjee,
Ms. Priyanka Das
...for the opposite parties

The subject of challenge in this revisional application is against the order dated 10th February, 2022, passed by learned Civil Judge (Junior Division), 4th Court, Alipore, in Title Suit No.1357 of 2019, rejecting the petitions filed by the petitioner/defendant under Section 7(1) and 7(2) of the W.B.P.T. Act.

Learned advocate appearing for the petitioner submits that the court below has erroneously decided the applications filed by the petitioner/defendant under Sections 7(1) and 7(2) of the W.B.P.T. Act without having duly considered the rent receipts, produced by petitioner/defendant being Annexure-‘B’ to the instant revisional application appearing at pages 16 and 17 of the instant revisional application.

Indisputably, petitioner, under an agreement was inducted as a tenant for a period of 11 years. The period of tenancy having expired on 1st November,

2015, a notice to quit was then issued, which could not be duly regarded to by the petitioner/defendant. Since notice to quit having been flouted by the petitioner/defendant, the suit for recovery of possession upon eviction of the petitioner from the premises under his possession, was sought for.

It is contended further by the learned advocate for the petitioner that after expiry of the lease period, the petitioner/defendant tendered his monthly rent to landlord, which having been refused, same was deposited before Rent Controller.

Learned advocate appearing for the petitioner disputes with the impugned decision, reached by the court below contending that basically it was a suit for eviction together with prayer for recovery of possession taking the ground of default and reasonable requirement. The pleadings, according to the petitioner/defendant, would however, reveal the same, the learned advocate for the petitioner argues.

Per contra, learned advocate appearing for the Caveators/opposite parties, supporting the order of learned court below, submits that basic ingredients being *sine quo non* to the invocation of provisions available under Sections 7(1) and 7(2) of the W.B.P.T. Act are conspicuously absent in the instant case, as the plaintiff has not accepted the petitioner/defendant to be a tenant under the law.

According to learned advocate for the Caveators/plaintiffs, the status of the petitioner is nothing but an illegal occupant after the expiration of the period of lease.

It is thus according to the Caveators/opposite parties, that the Court is not obliged to look into the rent receipts, if any produced, for the automatic application of the provisions available under Sections 7(1) and 7(2) of the W.B.P.T. Act, when status of petitioner has been grossly disputed by plaintiff..

Having considered the submission of both sides, it appears that admittedly petitioner was inducted in the suit premises for a period of 11 years, which having been expired, a notice to quit was issued. The premises is still under occupation of the petitioner/defendant, in respect of which recovery of possession has been sought for upon his eviction therefrom.

There is no dispute as regards filing of applications under Sections 7(1) and 7(2) of the W.B.P.T. Act within the period, as mentioned in the Act itself.

The rent receipts annexed with the instant revisional application, being Annexure-‘B’, appearing at pages 16 and 17 together with challans could not be considered by the court below, while endeavouring rejection of the prayer under Sections 7(1) and 7(2) of the W.B.P.T. Act.

A lawful decision, for the adjudication of the matter in controversy between the parties, with regard to such rent receipts and challans produced is thus inevitable.

The impugned order is thus set aside, with a direction upon the court below to hear afresh the applications, filed by the petitioner/defendant no.1 under Sections 7(1) and 7(2) of the W.B.P.T. Act, in context with the rent receipts and challans produced by the petitioner, and annexed with the instant revisional application, and decide the same in accordance with the provisions of the law, providing sufficient opportunity of hearing to either of the parties to this case.

It is, however, clarified that such exercise may be done within eight weeks from the date of communication of this order.

With this observation/direction, the revisional application stands disposed of.

Urgent certified photostat copy of this order, if applied for, be given to the parties as expeditiously as possible on compliance of all necessary formalities.

(Subhasis Dasgupta, J.)