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C.O. 1449 of 2022

**Sri Raj Kumar Madhogoria
Vs
Sri Rakesh Bhagat & Ors.**

Mr. Tanmoy Mukherjee ... For the petitioner.

Mr. Debjit Mukherjee.

Ms. Susmita Chatterjee ... For the Opposite parties.

Mr. Tanmoy Mukerjee, learned advocate appearing for the petitioner assails two orders, one dated 21st August, 2019, pertaining to the disposal of petition under Section 7(2) of the West Bengal Premises Tenancy Act, thereby holding the petitioner to be in arrears of rent since June, 2008, and another dated 22nd July, 2022, rejecting the application praying for recalling of order dated 21st August, 2019 in this case.

Mr. Tanmoy Mukerjee, upon adverting to para 5 of the plaint submits that the defendants were alleged to be defaulters of rent from the month of July, 2009, while in the order dated 21st August, 2019, the Court below held the petitioner to be in arrears of rent from June, 2008, which is purely in-contradiction with the averment made in the plaint. Subsequently, a recalling application was filed by the petitioner for perfect assessment of arrears of rent in context with the averment referred hereinabove in the plaint, but the same was rejected on 22nd April, 2022.

Mr. Debjit Mukherjee, learned advocate appearing for the opposite parties/plaintiffs submits that some different facts were disclosed by the petitioner in his petition under Section 7(2) of the West Bengal Premises Tenancy Act, as well as a petition under Section 151 of the Code of Civil Procedure, subsequently filed by the petitioner, which are also important.

Mr. Debjit Mukherjee, upon receiving instruction from his clients submits that as per disclosure made in the averment, contained in the plaint, the petitioner/defendant may be declared to be defaulter of rent since July, 2009, and further there may be a direction requiring the Court below to recalculate the arrears of rent within a stipulated period of time.

The Written instruction received by Mr. Debjit Mukherjee be taken on record.

Mr. Tanmay Mukherjee, learned advocate appearing for the petitioner concedes to the proposal made by Mr. Debjit Mukherjee.

That being the position, when opposite parties/plaintiffs prefer to accept arrears of rent from July 2009, voluntarily at the rate calculated by the Court below, which is, however, not opposed by Mr. Tanmoy Mukherjee, there is hardly any scope for any extensive hearing.

The revisional application is thus disposed of upon setting aside the order dated 21st August, 2019

and 22nd July, 2022 dealing with the decision under Section 7 (2) of the West Bengal Premises Tenancy Act with a direction upon Court below to make re-calculation of arrears of rent at the rate already decided by Court below on and from July 2009, and dispose of the petition filed under Section 7(2) of the West Bengal Premises Tenancy Act, within a period of fortnight from the date of communication of this order.

This order is passed without going into the merits of the case and without prejudice to the rights and contentions of the parties.

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

Urgent photostat certified copy of the order, if applied for, be given to the parties on usual undertakings.

(Subhasis Dasgupta, J)