

25.08.2022
Item No.17
Ct. No.7
CHC
(disposed of)

C.O.1735 of 2022

Sri Ranjit Kumar Sarkar
Vs.
Smt. Samita Ghosh & ors.

Ms. Manali Biswas
...for the petitioner

Mr. Rajdeep Bhattacharya
...for the opposite parties

The subject-matter of challenge in this case is against the order dated 12th May, 2022, passed by learned Civil Judge (Junior Division), at Alipore, South 24 Parganas, in Title Suit No.1264 of 2017, rejecting the application under Section 151 C.P.C. on a prayer for treating the deposits made before the Rent Controller as valid deposits.

Ms. Manali Biswas, learned advocate appearing for the petitioner/defendant submits that the erstwhile tenant namely, Amulya Sarkar was father of the petitioner. The father of the petitioner died intestate in the year 1992. After the demise of erstwhile tenant being father of the petitioner, before the institution of instant suit, a notice of eviction dated 13th January, 2006 was issued. Defendant for the tenancy dispute, started depositing rent before the Additional Rent Controller.

Upon filing petition under Section 151 C.P.C., petitioner sought for permission to deposit monthly rent before the court below together with prayer for treating all such deposits, made before the Rent Controller, as valid deposits.

Learned advocate appearing for the petitioner upon referring such facts, contends that though it is a suit under the T. P. Act, for eviction taking recourse to the provisions of the law, as available under Section 2(g) of the West Bengal Premises Tenancy Act, but there would be no prejudice caused to the opposite parties if such deposits are allowed to be produced and treated as valid deposits in the present suit.

It is also contended by the petitioner that after the demise of father of petitioner, namely, Amulya Sarkar, the petitioner inherited the tenancy with other legal heirs last residing in the tenanted premises at the time of death of the deceased father.

Per contra, Mr. Rajdeep Bhattacharya, learned advocate appearing for the opposite parties submits that this is not a suit under Section 6 of the Premises Tenancy Act, and in the absence of any established relationship between the petitioner and the opposite parties, such prayer should not be entertained by this Court in a suit, which has already set for argument.

It is further contended by the opposite parties that in this case, the provisions under Sections 7(1) and 7(2) of the W.B.P.T. Act are not attracted.

Learned advocate for the opposite parties further replies that there lies nothing about creation of a fresh tenancy between the petitioner and the opposite parties, within mischief period of five years, as mentioned in Section 2(g) of the W.B.P.T. Act.

Having considered the submission of both sides, it appears that there is nothing to reveal about the creation of a new tenancy within five years after the demise of the father of the petitioner. It would be improper for this Court to allow the prayer of the petitioner permitting the challans, if any deposited, before the Rent Controller, to be deposited in the court below and be treated as valid deposits.

The revisional application for the reasons mentioned hereinabove does not call for any interference.

However, this would not prevent the petitioner to produce the relevant document supportive of his alleged tenancy right, if there be any, at the time of adducing evidence before the court below, and if any such document is produced, that would be duly addressed to in accordance with the law.

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

Petitioner is directed to make communication of this order to the learned court below.

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.)