

05.09.2022
Item No.19
Ct. No.7
CHC
(disposed of)

C.O.1941 of 2022

**Smt. Chhabi Mukherjee
Vs.
Sri Pintu Das**

Ms. Susmita Saha Dutta,
Mr. Niladri Saha
...for the petitioner

Mr. Ayan Banerjee,
Mr. Tarun Kumar Aich,
Mrs. Tanusri Sur (Aich)
...for the opposite party

The subject-matter of challenge in this case is against the order dated 18th May, 2022, passed by learned Civil Judge (Junior Division), at Bidhannagar, North 24 Parganas, in Ejectment Suit No.20 of 2012, rejecting the petition under Section 7(2) of the W.B.P.T. Act.

Learned advocate appearing for the petitioner submits that the defendant is a neuro failure patient, and as a result of which, she could not file the appropriate application under Section 7(2) of the W.B.P.T. Act within the period stated in the Act itself. The delay caused, according to the petitioner, is unintentional, and the same should be condoned upon due exercise of the discretion of this Court.

Mr. Banerjee, learned advocate appearing for the opposite party submits that there is hardly any scope for adjudication of application under Section 5 of the

Limitation Act in the given circumstances of the case, where there is an inbuilt mechanism provided therefor dealing with limitation in the Act itself.

The proposition of law, has already been settled by the Apex Court in the decision reported in **2019 (10) SCC 660**, delivered in the case of ***Bijay Kumar Singh and others vs. Amit Kumar Chamariya and anr.*** that there is no scope of application under Section 5 of the Limitation Act to condone delay in filing application under Section 7(1) and 7(2) of the W.B.P.T. Act. The proposition of law having thus already been settled, the same should no be rendered unsettled.

The impugned order, as such, does not call for any interference.

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

Parties are 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.)