

15.02.2022
(S/L-35)
Ct.-18
(Susanta)

(Via Video Conference)

C.O. 2678 of 2019
With
I.A. No. CAN 1 of 2019 (Old CAN 9352 of 2019)
I.A. No. CAN 2 of 2022 (not in file)

Sri Hardyal Mochi @ Hardyal Goel
-Vs-
Prabir Kumar Misra
Md. Farhauddin,
.... For the Petitioner.

Mr. Ashish Chandra Bagchi,
Mr. S. N. Chattopadhyay,
... 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 the order No. 37 dated January 31, 2018 passed by the learned Judge, 3rd Bench Presidency Small Causes Court at Calcutta in the said suit being Ejectment Suit in 6997 of 2014.

The application filed by the petitioner under Section 7(1) of the West Bengal Premises Tenancy Act, 1997 (hereinafter referred to as the said "Act of 1997") was disposed of by the learned Trial Judge vide order dated April 24, 2015 whereby the petitioner was allowed to deposit the current rent on and from January 2015 @ Rs.700/- per month payable according to English Calendar month.

The petitioner instead of depositing the current rent in Court continued to deposit the same with the Rent Controller.

In the meantime, the plaintiff/opposite party took out an application under Section 7(3) of the

said Act of 1997 for striking out the defence of the petitioner against the delivery of possession for non-compliance of the order passed under Section 7(1) of the said Act of 1997.

The petitioner thereafter filed an application seeking modification of the said order dated April 24, 2015 to allow him to deposit the arrear rent from January 2015 in the suit.

The learned Trial Judge by the first part of the order impugned has dismissed the application filed by the petitioner seeking modification of the said order dated April 24, 2015 and by the latter part allowed the application filed by the plaintiff/opposite party under Section 7(3) of the said Act of 1997.

On a suit being instituted by the landlord for eviction of any of the grounds referred to in Section 6 of the said Act of 1997, the tenant shall subject to the provisions of sub-section (2) of Section 7 pay to the landlord or deposit with the Civil Judge all arrears of rent calculated at the rate at which it was last paid and up to the end of the month previous to that in which the payment is made together with interest at the rate of 10 per cent per annum.

After institution of the suit, there is no scope for the tenant to deposit arrear and/or current rent under Section 7(1) of the said Act of 1997 with the rent controller, if such deposits are made, those are invalid.

Therefore, the learned Trial Judge by dismissing the application filed by the petitioner seeking modification of the order passed under Section 7(1) of the said Act of 1997 and by allowing the application filed by the plaintiff/opposite party for striking out the defence of the petitioner against the delivery of possession for non-compliance of the said order has not committed any jurisdictional error, the order impugned, therefore, does not call for any interference.

C.O. 2678 of 2019 is dismissed without any order as to costs.

In view of the dismissal of the said revisional application, the connected applications being I.A. No. CAN 1 of 2019 (Old CAN 9352 of 2019) and I.A. No. CAN 2 of 2022 are disposed of accordingly.

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.)