

02.03.2022
Item No.14
Court No.18
AJ.

C.O. 1943 of 2021

(Through Video Conference)

Soma Sarkar

-Vs-

Smt. Gitika Banerjee & Ors.

Mr. Sounak Bhattacharya,
Mr. Chandra Nath Sarkar,
Mr. Sounak Mandal.
....for the petitioner.

Mr. Shaunak Ghosh,
Md. Hossain.
....for the opposite party nos. 1 & 2.

Affidavit-of-service filed by the learned advocate for the petitioner is taken on record.

Although the matter has appeared in the list under the heading “**Extension of Interim Order**”, but by the consent of the parties, the revisional application is taken up for final disposal.

The present application under Article 227 of the Constitution of India is at the instance of the plaintiff in a suit for eviction and is directed against order dated October 08, 2021 passed by the 1st Court of the learned Civil Judge (Junior Division), Sealdah, District 24-Parganas (South) in the said suit being Ejectment Suit No. 49 of 2021.

The learned Trial Judge by the order impugned has permitted the defendants to comply with the provision of Section 7(1) of the West Bengal Premises Tenancy Act, 1997 (hereinafter referred to as the ‘said Act of 1997’).

Mr. Sounak Bhattacharya, learned advocate appearing on behalf of the petitioner submits that the plaintiffs are seeking eviction of the defendants from

the suit property on the ground that on expiry of five years after the death of the original tenant and his widow, the defendants by operation of Section 2(g) of the said Act of 1997 have become trespassers in the suit property, therefore, the suit not being a suit under Section 6 of the said Act of 1997, Section 7 thereof has no manner of application.

The suit, as it has been framed, Section 7 of the said Act of 1997 has no manner of application therein, as such, the defendants are not obliged to comply with the said provision of the said Act as non-compliance thereof does not entail any consequence.

The order impugned, for the aforesaid reasons, is not sustainable and is accordingly set aside.

The learned Trial Judge is requested to expedite the suit as expeditiously as possible in accordance with law.

C.O. 1943 of 2021 is disposed of with the above terms without any order as to costs.

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.)