

06.01.2022
Item No. 11
Court No.18
A.J.

C.O. 2125 of 2021
(Through Video Conference)

Smt. Kalpana Chakraborty
-Vs-
Sri Ramesh Chakraborty

Mr. Tanmay Mukherjee,
Mr. Souvik Das,
Mr. K.R. Ahmed,
Mr. Rudranil Das.

...for the petitioner.

Ms. Shebatee Datta.

....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 eviction and is directed against order dated January 13, 2020 passed by the 5th Court of the learned Civil Judge (Junior Division), Howrah in the said suit being Title Suit No. 156 of 2013.

The petitioner in the suit has filed an application under Section 7(2) of the West Bengal Premises Tenancy Act, 1997 claiming that he has deposited rent with the Rent Controller for the period for which the default in payment of rent has been alleged. The petitioner in support of his such claim has filed some rent control challans.

The plaintiff/opposite party in his written objection to the said application has disputed the validity of the rents deposited under those rent control challans.

The petitioner to dispel the doubt sought to be created by the plaintiff/opposite party regarding validity of the rents deposited under the said challans prayed issuance of witness summons upon the Rent Controller, Howrah. The said prayer of the petitioner was allowed and witness summons was issued to the said Controller but the said witness did not turn up before the learned Trial Judge for the last three years.

Under such circumstances, the learned Trial Judge, by the order impugned, has closed the evidence of the petitioner and has decided to record the evidence of the plaintiff/opposite party on the said application.

The rent control challans filed by the petitioner have already been marked Exhibits. Deposit made under those challans although presupposes compliance of all the requirements of Section 21 of the said Act of 1997 but the initial burden to dispel all doubt regarding the validity of the rents deposited under those challans is upon the petitioner.

The validity of the deposits made under those challans can be tested on the basis of the evidences and materials to be gathered from the parties in course of trial of the said application for which citing the Rent Controller, Howrah as

witness in the said proceeding is a completely unnecessary exercise resulting delay in disposal of the said application, in the present case which is three years.

The order impugned, therefore, does not call for any interference.

C.O. 2125 of 2021 is disposed of with a request to the learned Trial Judge to dispose of the application under Section 7(2) of the said Act of 1997 as expeditiously as possible in accordance with law without granting any unnecessary adjournment to either of the parties.

There shall be no 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.)