

**Sri Bholanath Sheet
Vs.
Smt. Namita Nandy**

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Mr. M.P Gupta
Mr. Abhisek Banerjee
Ms. Sanchita Banerjee
... For the Appellant

We have heard the learned counsel appearing for the appellant. The appellant has strenuously argued that the second appeal is required to be admitted on the ground that arrears rent has been received by the landlord beyond the period of time specified by the trial court and this shows that the landlord has condoned the delay in depositing or tendering the arrears rent.

Learned counsel for the appellant wants to admit this appeal on such point. Unfortunately, by operation of law Section 7 sub-clause(3) of the West Bengal Premises Tenancy Act states that *“if the tenant fails to deposit or pay any amount referred to in sub-section (1) or sub-section (2) within the time specified therein or within such extended time as may be granted, the Civil Judge shall order the defence against delivery of possession to be struck out and shall proceed with the hearing of the suit.”*

The said provision is mandatory and also held by the Hon’ble Supreme Court in **Bijoy Kumar Singh Vs. Amit Kumar Chamariya, reported in 2019(10) SCC 660**. Moreover, it transpires that an application was filed by the appellant before the trial court for extending the time to deposit the arrears rent and the said application was rejected by the trial court against

which a revisional application was filed and the same was also dismissed.

In view thereof, there is no substantial question of law involved for which the second appeal could be admitted.

On such consideration, we do not find any merit in the second appeal.

The second appeal is, therefore, summarily dismissed under Order XLI Rule 11 of the Code of Civil Procedure.

(Ajoy Kumar Mukherjee,J.)

(Soumen Sen, J.)

