

12.07.2022
Item No.07
Court No.18
AJ.

C.O. 2241 of 2021

Surya Deb Lal

-Vs-

Kartick Chandra Das

Mr. Asit Baran Raut,

Mr. Tuhin Subhra Raut.

.....for the petitioner.

Mr. Tarak Nath Halder.

.....for the opposite party.

Affidavit-of-service filed in Court be kept with the record.

This is the tenant/defendant's application under Article 227 of the Constitution of India.

The application of the defendant under Section 7(2) of the West Bengal Premises Tenancy Act, 1997 was disposed of vide order dated January 13, 2021 declaring that the defendant is a defaulter in payment of rent for the period from November 2020 to January 2021.

The defendant filed an application under Section 151 of the Code of Civil Procedure seeking recall and/or modification of the said order alleging that he had deposited rent in the suit for the period for which he has been declared defaulter.

The learned Trial Judge by the order impugned being order dated November 24, 2021 has modified the said order dated January 13, 2021 holding that the defendant is not a defaulter for the month of December 2020 and January 2021 as challans evidencing deposits of rent in the suit for the said two months were filed in support of the said application for modification/

clarification but he was declared defaulter for the month of November 2020 for want of such challan.

Mr. Raut, learned advocate for the petitioner drawing my attention to the photocopy of the challan for the month of November 2020 annexed with the revisional application submits that the said challan could not be produced before the learned Trial Judge as the same was in the custody of the clerk of the learned advocate for the defendant.

Mr. Halder learned advocate for the opposite party submits that to delay the disposal of the suit the said challan was not filed at the appropriate stage.

The challan under which the rent for the month of November 2020 was deposited in the suit is not in dispute as such the order impugned is modified declaring that the defendant is not a defaulter for the month of November 2020 also.

This Court is informed that July 25, 2022 is the next date fixed for cross-examination of P.W.1.

The defendant shall conclude the cross-examination of the said witness on the said date positively.

C.O. 2241 of 2021 is disposed of with the above terms without any order as to costs.

The learned Trial Judge is requested to expedite the disposal of the suit and in doing so shall not entertain the prayer of the parties for any unnecessary adjournment.

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.)