

23.02.2022
SL No. 138
Court No. 21
sk

C.O. 2316 of 2021
Ram Deb Shaw @ Ram Deo Shaw
Vs
Sufia Mahmood & Ors.
(Via Video Conference)

Mr. Ramkrishna Bhattacharyya
Mr. Sk. Aptabuddin
...for the petitioner.

Mr. Ramkrishna Bhattacharyya, learned advocate
appears for the petitioner.

Heard learned advocate for the petitioner.

The present application is at the instance of the
defendant being aggrieved by the order passed by the
learned Judge Presidency Small Cause Court, 3rd Bench,
Kolkata in Ejectment Suit No. 413 of 2013 dated
25.03.2021 whereby the learned court below has been
pleased to reject the application of the petitioner under
Section 151 CPC where the petitioner has sought an
extension for deposit of arrear rent determined by the
learned court below while disposing the application under
Section 7(2) of the W.B. P.T.Act.

Perused the impugned order from where it appears
that the learned court below while disposing of the
application under Section 7(2) of the W.B.P.T. Act has
come to the finding that the defendant is liable to pay
arrear of rent of Rs. 2,596/- and thereby directed the

defendant to make deposit of the same within a month vide order .

It appears from the impugned order, the petitioner has come with a petition under Section 151 C.P.C. on 30.5.2019 seeking permission to deposit the determined arrear rent of Rs. 2,596/- by taking plea that due to illness he could not deposit the arrear rent within time as directed by the court.

It appears from the impugned order, the court below has failed to take into consideration the proviso contained in Section 7(2) of the West Bengal Premises Tenancy Act which provides the Civil Judge after considering the circumstances pleaded by the defendant it can extend the time period for deposit of determined arrear rent, if not paid within the frame fixed once and grant extension and which should not exceed two months. It is true in the present case the petitioner has stated that due to illness he could not deposit the arrear rent within a month and had come with a petition under Section 151 C.P.C. after lapse of three months from the date by which he was supposed to deposit the arrear.

Since learned court below failed to take into consideration the proviso contained in Section 7(2) of the Act, this court finds impugned order suffers from illegality and liable to be set it aside.

However, the petitioner is directed to deposit the determined arrear rent of Rs. 2,596/- within a month from

the date of hereof in the learned court below failing which his defence will be struck off.

Accordingly, C.O. 2316 of 2021 is disposed of.

There shall however, no order as to costs.

Parties are to act on the server copy of this order duly downloaded from the official website of this court.

(Kesang Doma Bhutia, J.)