

13.12.2022
Item No.17
Ct. No.7
CHC
(disposed of)

C.O.3065 of 2022

Sri Paramananda Chowdhury
Vs.
Smt. Jyotsna Sadhukhan & ors.

Mr. Purnasish Gupta,
Ms. Mary Datta
...for the petitioner

Mr. Tanmoy Mukherjee,
Mr. Ashis Kumar Dutta

Rejection of a petition filed in suit for eviction of a trespasser is under challenge in this case.

Mr. Gupta, learned advocate appearing for the petitioner disputes with the impugned order submitting that the relief, proposed to be obtained upon filing the suit, has been granted at an interlocutory stage, what is not at all permissible under the law.

It is submitted by the petitioner that the petitioner is in business relationship with his deceased brother, and the property wherefrom petitioner has been sought to be evicted describing him to be a trespasser is a tenanted property belonging to the petitioner with his deceased elder brother.

It is thus contended that there has been improper decision reached without adverting to the true facts presented and pressed.

Per contra, Mr. Tanmoy Mukherjee, learned advocate appearing for the opposite parties denies allegation raised by the petitioner replying to the effect that in a suit for eviction of the trespasser, the provisions of Section 7(2) of the W.B.P.T. Act is not applicable, because Section 7(2) W.B.P.T. Act will be applicable in an eviction suit, which has been filed for eviction taking grounds, as available under Section 6 of the W.B.P.T. Act.

The copy of the plaint is produced, wherefrom it is found that petitioner has been described to be a trespasser, and for which eviction has been proposed. In the absence of any document, the claim of tenancy may not be presumed. Not a single scrap of paper is found produced in support of the claim of tenancy. The argument raised by Mr. Mukherjee that the applicability of Section 7(2) W.B.P.T. Act is restricted to a suit basically for eviction of a trespasser, and this Court shares the same view.

Upon perusal of the impugned order, there is hardly any scope for any interference.

The revisional application stands disposed of.

However, this would not prevent the petitioner to put up appropriate defence during trial in support of the claim of tenancy, if there be any.

Parties are directed to make communication of this order to the court below.

Urgent certified photostat copy of this order, if applied for, be given to the parties as expeditiously as possible on compliance of all necessary formalities.

(Subhasis Dasgupta, J.)