

**In the High Court at Calcutta
Civil Revisional Jurisdiction
Appellate Side**

Present:-

The Hon'ble Justice Subhasis Dasgupta.

C.O. No. 3229 of 2022

Pradip Das

Vs.

Syannasi Prasad Roy

For the Petitioner	: Mr. Goutam Brahma, Adv. Mrs. Pampa Saha, Adv. Mr. Arijit Dey, Adv.
For the Opposite Parties	: Mr. Sanjib Bandopadhyay, Adv. Mr. Monoy Kumar Mondal, Adv.
Heard On	: 24.11.2022.
Judgment	: 28.11.2022.

Subhasis Dasgupta, J:-

Subject matter of challenge in this case is against the rejection of a prayer under Sections 7(1) and 7(2) of the West Bengal Premises Tenancy Act, read with Section 5 of the Limitation Act.

Admittedly, such application was filed on 11th July, 2016.

Mr. Goutam Brahma, learned advocate appearing for the petitioner disputes with the impugned order upon referring some facts relatable to some events, in order to establish the bona fide on the part of the defendant, as to why there could not be any application filed earlier, invoking the provision of 7(1) and 7(2) of W.B.P.T. Act.

In his honest endeavour put forward, learned advocate for the petitioner proposes for making interference, upon taking consideration of some past events so that the petitioner may not be left unprotected at the moment.

Reliance is placed on an unreported decision passed in C.O. No. 1368 of 2022 with C.O. No. 1640 of 2022 delivered by this Court, to submit that an opportunity may be given to the petitioner so that there may be consideration afresh of the petition under Sections 7(1) and 7(2) of W.B.P.T. Act, read with Section 5 of the Limitation Act for the ends of justice.

Such events, as sought to be impressed, upon this Court by the learned advocate for the petitioner, appear to be irrelevant at the moment for returning a decision under Section 7(1) and 7(2) of W.B.P.T. Act, read with Section 5 of Limitation Act.

The referred judgment is relatable to different factual matrix, as such the judgment relied upon, would be without relevance, being factually distinguished.

Per contra, Mr. Sanjib Bandopadhyay, learned advocate appearing for the caveator/opposite party replies against the submission of the petitioner that the interlocutory petition under Sections 7(1) and 7(2) of W.B.P.T. Act, read with Section 5 of the Limitation Act, was filed in his suit for eviction of licensee. Therefore, the eviction has been proposed upon describing the defendant to be licensee, where there is hardly any

scope for filing any application under the Act referred above, Mr. Bandopadhyay argues.

More so, Section 5 of Limitation Act would not be applied even in the case of application under Sections 7(1) and 7(2) of the W.B.P.T. Act.

Having considered the submissions of both sides, it appears that reconsideration of a prayer under Sections 7(1) and 7(2) of W.B.P.T. Act has been proposed taking into the account of some past episode, revealing the circumstances, as to what prevented the defendant from taking recourse to the provisions of 7(1) and 7(2) of W.B.P.T. Act much earlier, which is, however, strongly denied by the opposite party alleging the least scope of application of Section 5 Limitation Act over Section 7(1) and 7(2) of W.B.P.T. Act, in such nature of suit, which was basically instituted for eviction upon describing the defendant to be licensee.

Upon perusal of the impugned order, it appears that the defendant appeared in the suit on 11th March, 2016, and such application of Section 5 of Limitation Act, along with application 7(1) and 7(2) of W.B.P.T. Act was, however, filed on 11th July, 2016. There is an inbuilt mechanism prescribed within the Section 7(1) and 7(2) of the Act itself, prescribing certain period of time, which, however, prohibits application of Section 5 of Limitation Act on such piece of legislation.

The court below has considered the settled proposition of law, delivered by Apex Court in **(2019) 10 SCC 660**, in the case of **Bijay Kumar Singh & Ors. Vs. Amit Kumar Chamariya & Anr.** The

principles of law being strictly applied for the settled proposition of law, the same cannot be allowed to be un-settled.

The impunged order does not call for any interference, for the discussions made hereinabove.

The revisional application, accordingly stands disposed of.

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

Urgent photostat certified copy of this order, if applied for, be given to the parties, upon compliance of all formalities, on priority basis.

(Subhasis Dasgupta, J.)