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**CO No. 35 of 2023**

**Sri Anil Drolia  
versus  
Sri Gobinda Dutta Roy**

Mr. S. Siddeque,  
Mr. S. Alam. .... For the petitioner.

Mr. Partha Sarati Das,  
Mr. Tarak Nath Chakraborty.  
... for the opposite party.

Affidavit of service filed by the petitioner be taken on record.

In this revisional application the order dated 7<sup>th</sup> March, 2022 in connection with Ejectment Suit No. 31 of 2014 has been challenged.

Mr. S Siddeque, learned advocate appearing on behalf of the petitioner has submitted that Section 7(2) of the West Bengal Premises Tenancy Act was disposed of without giving any opportunity to the petitioner/defendant.

Per contra, Mr. Partha Sarati Das, learned advocate appearing on behalf of the opposite party/plaintiff has submitted that several opportunities were given to the petitioner/defendant for payment of rent but no document was shown to the court on the date when the order impugned was passed.

Before going through the impugned order, I propose

to lay out the provision of Section 7(2) of the West Bengal Premises Tenancy Act which is hereinbelow:

***“7(2) If in any (suit) referred to in sub-section (1), there is any dispute as to the amount of the rent payable by the tenant, the tenant shall, within the time specified in that sub-section, deposit with (the Civil Judge) the amount admitted by him to be due from him together with an application for determination of the rent payable. No such deposit shall be accepted unless it is accompanied by an application for determination of the rent payable. On receipt of the application, (the Civil Judge) shall, having regard to the rate at which rent was last paid and the period for which default may have been made by the tenant, make, as soon as possible within a period not exceeding one year, an order specifying the amount, of any, due from the tenant and, thereupon, the tenant shall, within one month of the date of such order, pay to the landlord the amount so specified in the order:***

***Provided that having regard to the circumstances of the case an extension of time may be granted by (the Civil Judge) only once and the period of such extension shall not exceed two months.”***

Therefore, at the time of disposing of application under Section 7(2) of the West Bengal Premises Tenancy Act, Court has to take two issues to be adjudicated. First issue is the relationship between the landlord and tenant, if disputed and also the arrears of rent with a direction upon the tenant to pay all the arrears within a specified time mentioned in the proviso of Section 7(2) of the West Bengal Premises Tenancy Act.

Here in this case, learned Judge rejected the application under Section 7(2) without adjudicating the arrears of rent or relationship between the landlord and

tenant vide its order dated 07.03.2022. Learned Judge rejected the application under Section 7(2) of the West Bengal Premises Tenancy Act only on the ground that no document was filed by the petitioner/defendant before the Trial Court as well as on behalf of the petitioner/defendant one adjournment petition was filed.

Considering the facts and circumstances discussed above in terms of the provision of Section 7(2) of the West Bengal Premises Tenancy Act, I find no other option to request the learned Judge to take up Section 7(2) of the West Bengal Premises Tenancy Act afresh after giving opportunity of hearing to both sides and to dispose of the same within a month without giving any unnecessary adjournments to either of the parties, subject to condonation of delay, if any, according to law.

It is submitted that one application was filed under Section 5 of the Limitation Act before the Trial Court with reference to different cause title and different Ejectment Suit No. mistakenly.

From the record, it appears that defendant/petitioner was very much lackadaisical in filing application under Section 5 of the Limitation Act, incorporating contradictory statement in the application as well as in connection with different cause title and Ejectment Suit.

Petitioner/defendant is being given liberty to file application under Section 5 of the Limitation Act before

the Trial Court afresh subject to payment of cost of Rs.10,000/- to be paid to the Legal Service Authority, High Court, Calcutta within two days from the date of this order, subject to settled principle of law with regard to condonation of delay in filing any application.

Petitioner is directed to make communication of this order to the learned Civil Judge (Junior Division), Bidhannagar.

With this observation and direction, the revisional application stands disposed of.

All the parties shall act on the server copy of this order duly downloaded from the official web site of this Court.

***(Bibhas Ranjan De, J.)***