

S/L 39
16.01.2023
Court. No. 12
Sourav

CO 135 of 2016

Syed Saifullah
Vs.
Syed Farhad Hossain & Anr.

Mr. Debasis Sur
Mr. Himadri Shekhar Paul

...for the petitioner.

Mr. Maseed Karim
Mr. Galib Ahsan
Mr. Abhijit Chatterjee

...for the opposite parties.

Both the parties are represented by their respective learned advocates.

The instant revisional application under Article 227 of the Constitution of India arises out of an order dated 30.11.2015 as passed by the learned Additional Civil Judge (Junior Division), 1st Court at Alipore in Ejectment Suit No. 115 of 2014, whereby and whereunder the said Court while disposing of an application under Section 7(2) of the West Bengal Premises Tenancy Act, 1997 (the Act, for short) as filed by the defendant/revisionist herein adjudicated the arrears of rent together with interest to the tune of Rs. 1,09,451/- with a direction to the defendant to pay the same in two monthly instalments within 15.12.2015 and 13.01.2016 respectively.

By the self-same order, the learned trial court kept open the landlord-tenant relationship dispute as agitated by the tenant by filing a petition under Section 151 of the Code of Civil Procedure at the time of final adjudication of the suit.

The defendant felt aggrieved and thus preferred the instant revisional application.

In support of the instant revisional application, the learned advocate for the tenant-revisionist submits before this Court that the assessment of default as made by the learned trial court is not appropriate and, therefore, the adjudication with regard to the period of default is faulty. It is further argued that the learned trial court ought to have disposed of the petition for challenging the landlord and tenant relationship first and, thereafter, to dispose of the petition under Section 7(2) of the said Act.

While opposing the contention of the present revisionist, learned advocate for the opposite party/landlord draws attention of this Court to the photocopy of the petition under Section 7(2) of the said Act as filed by the tenant/revisionist before the learned trial Court. It is contended that in the said petition under Section 7(2) of the said Act, no dispute with regard to the relationship of landlord and tenant has been raised and on the contrary, dispute with regard to be arrears of rent has been canvassed and, therefore, the learned trial court is absolutely justified in passing the impugned order.

On perusal of the entire materials before this Court and after hearing the learned advocates for both sides, it appears to this Court that before the learned trial court by filing the petition under Section 7(2) of the said Act only the quantum of arrears of rent as payable by the tenant has been disputed and, therefore, the learned trial court is very much justified in passing the impugned order assessing the

quantum of arrears of rent together with prescribed interest. It is also submitted in course of hearing that the present revisionist has already deposited the installments as assessed by the learned trial court in the impugned order. Such being the position, this Court finds that nothing left for this Court to interfere with the impugned order and accordingly, the instant revisional application is dismissed. As a result, the impugned order dated 30.11.2015 passed by the learned Additional Civil Judge (Junior Division), 1st Court at Alipore in Ejectment Suit No. 115 of 2014 is hereby affirmed.

Department is directed to forward a copy of this order to the learned trial court at the earliest.

The learned trial Court is hereby directed to expedite the suit as pending before him without granting unnecessary adjournments to either of the sides.

(Partha Sarathi Sen, J.)