

41  
Ct  
237  
RUP

10.04.  
2023

**C.O 438 of 2023**

**Smt. Madhumita Mondal & Anr.**  
**Vs**  
**Smt. Janki Jaiswal**

Mrs. Shohini Chakraborty,  
Mr. Asis Kr. Das,  
Mr. Suman Chattopadhyay.

... For the petitioners.

Mr. Prabal Kumar Mukherjee, Sr. Adv.  
Mr. Nitai Ch. Saha,  
Mr. Abhijit Ch Majumder. ....For the opposite party.

This revisional application has been filed challenging the order dated 3<sup>rd</sup> February, 2023 in connection with Ejectment Suit No. 12 of 2017 passed by the learned Civil Judge (Senior Division), 7<sup>th</sup> Court Alipore.

Heard both the learned advocates appearing on behalf of the parties.

Learned Trial Judge took up the application under Section 7(2) of the West Bengal Premises Tenancy Act, 1997, filed by the defendants, by the order impugned pursuant to the order of this Hon'ble Court in CO No. 1347 of 2020, whereby learned Trial Judge was requested to dispose of the application under Section 7(2) of the West Bengal Premises Tenancy Act, within period of four weeks. It was further observed by the Hon'ble Court in CO 1347 of 2020 requesting learned Judge to dispose of the landlord and tenant relationship

in terms of Section 7(2) of the West Bengal Premises Tenancy Act, 1997 and then to take up the issue of non-compliance of Section 7(1) of the West Bengal Premises Tenancy Act, 1997.

By the impugned order learned Judge took up the application under Section 7(2) of the West Bengal Premises Tenancy Act, 1997, but landlord and tenant relationship has not been ascertained after evaluating the evidence and instead learned Judge took up the issue of non-compliance of 7(1) of the West Bengal Premises Tenancy Act, 1997 and struck out the defence in terms of sub-Section 3 of Section 7 of the Premises Tenancy Act.

With the aforesaid view of the matter, I find that learned Judge did not comply the direction of the Hon'ble Court in CO 1347 of 2020 on 08.04.2021 and thereby order impugned suffers from infirmity and liable to be set aside.

The order impugned dated 3<sup>rd</sup> February, 2023 in connection with Ejectment Suit No. 12 of 2017 stands set aside.

Learned Trial Judge is requested to decide the landlord and tenant relationship in compliance with the order dated 08.04.2021 in connection with CO No. 1347 of 2020 within one month from the of receipt of this order.

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.)**