

42
Ct
237
RUP

10.04.
2023

C.O 439 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 3rd February, 2023 in connection with Ejectment Suit No. 11 of 2017 whereby learned Judge disposed of application Under Order 7(2) and struck out the defence for non-compliance of provision of Section 7(1) of the West Bengal Premises Tenancy Act, 1997.

In fact, learned Trial Judge took up the application under Section 7(2) of the West Bengal Premises Tenancy Act, 1997, pursuant to the order of this Hon'ble Court in CO No. 1345 of 2020 requesting learned Trial Judge to dispose of the application under Section 7(2) of the West Bengal Premises Tenancy Act, 1997 not exceeding within one year from the date of receipt of the application and it was also observed that mischief of Section 7(1) of the West Bengal Premises Tenancy Act, 1997 will come into play after decision of

relationship of landlord and tenant under Section 7(2) of the West Bengal Premises Tenancy Act, 1997.

Heard both the learned advocates on behalf of the parties to this revisional application.

On a careful perusal of the entire order impugned, I find that learned Judge only came to his final opinion that defendants were not in a position to deny the landlord tenant relationship with the plaintiffs.

From the order impugned, it appears that learned Judge took evidence on that issue but unfortunately did not evaluate the evidence on record before coming to final order.

On a careful scrutiny of the order impugned, I do not find any kind of discussion of the evidence adduced by the parties with regard to the landlord tenant relationship.

In the premises set forth above, I am unable to accept the reason by which learned Judge decided the landlord tenant relationship.

Accordingly the order impugned dated 3rd February, 2023 in connection with Ejectment Suit No. 11 of 2017 stands set aside.

Learned Judge is requested to re-hear the application under Section 7(2) of the West Bengal Premises Tenancy Act, 1997 in terms of order passed by the Hon'ble Court in C.O. No. 1345 of 2020 within one month from the date of this order on the documents evidence

already on record.

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.)