

August 10, 2023
Sl. No.15
Court No.19
s.biswas

CO 983 of 2020

Ramesh Shahani
vs.
Debasis Mullick

Mr. Santu Nandy

... for the petitioner

Mr. Sib Sankar Das

Mr. P. Mukherjee

... for the opposite parties

This revisional application arises out of an order dated February 10, 2020 passed by the learned Judge, Presidency Small Causes Court, 3rd Bench, Calcutta, in Ejectment Suit No.587 of 2016.

By the order impugned, the learned Judge directed the petitioner/tenant to pay the following sum as arrear rents:

“Thus the defendant has to pay
Rs.(20,173+24,870.20+1,11,709.40) = 1,56,752.60/-”

According to the learned court below, the arrear rent amounting to Rs.1,56,752.60/- was from September, 2000 to November, 2019. The same was to be paid within a month from the date of the order.

The petitioner/tenant has challenged the said order on the ground that the learned court has compounded the principal amount due and payable for specific period of time. Rs.1,11,709.40/- was found to be arrears from September, 2000 to December, 2017. The arrear between January, 2018 and November, 2019 was found to be Rs.4,696.60/-.

The arrear from March, 2005 to May, 2005 was found to be Rs.1460/-. Along with the said arrears, the learned court added the arrears from September, 2001 to December, 2017.

This calculation, according to the Court, is incorrect. The principal amount could not be compounded. At best, the arrears of Rs.1,11,709.40/- along with 10% simple interest plus Rs.4,696.60/- and Rs.1460/- should have been calculated as the arrear rent.

Moreover, the learned court below has also failed to indicate the current rent that should be paid by the petitioner month by month, within 15th of the succeeding month. Such point shall also be decided.

Thus, the order impugned is set aside.

The learned court below is directed to rehear the application under Section 7(2) of the West Bengal Premises Tenancy Act, 1997 and recalculate the entire amount and pass necessary orders within a month from date.

The pending application under Section 7(3) of the Act shall not be decided before this order is complied with.

This Court has not interfered with the order impugned with regard to finding of bad deposit as this court is of the view that those findings of facts

cannot be subject to the jurisdiction of the court by the powers conferred under Article 227 of the Constitution of India as the said issue was decided by the learned court below. The matter is remanded just for the limited purpose for calculation of arrears with statutory interest that is to be paid as per findings of the court and the current rent to be deposited.

The revisional application is thus disposed of.

All the parties are directed to act on the basis of the server copy of the order.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Shampa Sarkar, J.)