

08.06.2023
Sl. No.11(DL)
srm

C.O. No. 1678 of 2023
Sk. Jahangir Bros. & Sister
Versus
Zeyaul Hassan

Mr. Nirmalya Kumar Das,
Mr. Jahangir Hossain

...for the Petitioner.

The petitioner has impugned the order dated April 4, 2023 passed by the learned Chief Judge, Presidency Small Causes Court, Calcutta in Ejectment Suit No.233 of 2021. The learned Judge was of the view that as per the judgment of the Hon'ble Apex Court in the matter of Bijay Kumar Singh & Ors. vs. Amit Kumar Chamaria & Anr. reported in 2020(1) Indian Civil Cases 664 (SC), the tenant cannot be allowed to deposit the arrear rent beyond the period specified by the statute under Section 7(1) of the West Bengal Premises Tenancy Act, 1997 (hereinafter referred to as the said Act).

Section 7(1) of the said Act is quoted below:

"7. When a tenant can get the benefit of protection against eviction. — (1)(a) On a suit being instituted by the landlord for eviction on any of the grounds referred to in section 6, the tenant shall, subject to the provisions of sub-section (2) of this section, pay to the landlord or deposit with the Civil Judge all arrears of rent, calculated at the rate at which it was last paid and upto the end of the month previous to that in which the

payment is made together with interest at the rate of ten *per cent per annum*.

(b) Such payment or deposit shall be made within one month of the service of summons on the tenant or, where he appears in the suit without the summons being served upon him, within one month of his appearance.

(c) The tenant shall thereafter continue to pay to the landlord or deposit with the Civil Judge month by month by the 15th of each succeeding month, a sum equivalent to the rent at the rate."

In *Bijay Kumar Singh* (supra), the Hon'ble Apex Court held that if a tenant fails to deposit admitted arrear rent within a month of receipt of summons or within a month of appearance without summons and also fails to make an application for determination of the disputed amount of rate of rent and the period of arrears, the subsequent non-payment on determining the arrears of rent will entail the eviction of the tenant. Section 7 of the said Act provides a complete mechanism for avoiding eviction on the ground of arrears of rent provided that the tenant takes steps as contemplated under sub-section (2) of Section 7 of the said Act and deposits the arrears of rent on determination of the disputed amount. The deposit of rent is a pre-condition to avoid eviction on the ground of non-payment of arrear of rent.

The language of Section 7(1) of the said Act has been strictly interpreted both by the Hon'ble High Court and by the Hon'ble Apex Court. The Hon'ble Apex Court categorically

held that Section 7(1) of the said Act does not leave any room or scope for the Court to condone the delay in payment of the arrear rent beyond the time limit fixed by the statute. Section 5 of the Limitation Act shall not be applicable.

The decision cited by Mr. Das of a Hon'ble Division Bench of this Court in C.O. 3443 of 2010 with C.O. 3054 of 2011 is no longer applicable in view of the decision rendered by the Hon'ble Apex Court.

Under such circumstances, the learned trial Judge has not erred in rejecting the application for deposit of belated rent upon condonation of delay of more than four months from the date of disposal of the application under Section 7(1) of the said Act.

The revisional application is, thus, dismissed.

There will be, however, no order as to costs.

Parties are to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)