

S/L 13
01.05.2023
Court. No. 12
Sourav

**CO 1908 of 2022
With
CAN 1 of 2023**

**Smt. Lakshmi Kuila & Anr.
Vs.
Surath Chandra Halder & Ors.**

Mr. Taraknath Halder

...for the petitioners.

*Mr. Gautam Das
Ms. Madhumita Patra*

...for the opposite parties.

1. Both the parties are represented by their respective learned advocates.
2. Heard learned advocate for the defendants/revisionists and learned advocate for the plaintiffs/opposite parties at length.
3. The present revisional application is now taken up for passing appropriate order.
4. In this revisional application, the order dated March 31, 2022 as passed by the learned Civil Judge (Junior Division), Additional Court at Sealdah, District – South 24 Parganas in Ejectment Suit No. 67 of 2013 has been assailed.
5. By the impugned order, learned Trial Court in a suit for eviction under the provisions of the West Bengal Premises Tenancy Act, 1997, ('the said Act of 1997', for short) has been pleased to dispose of the petition under Section 7(2) of the said Act of 1997 holding that there exists a relationship of landlord and tenant between the plaintiffs and the defendants, subject to

final determination of the said suit and by the self-same order, learned Trial Court was also pleased to hold that the defendants are defaulter in payment of rent for the months of January, 1973 to February 2022 at the rate of Rs. 40/- per month and thus directed the defendants of the said suit to pay the arrears of rent together with statutory interest amounting to Rs. 25,432/- in favour of the plaintiffs within one month from the date of passing of this said order.

6. The defendants of Ejectment Suit No. 67 of 2013 felt aggrieved and thus, preferred the instant revisional application.
7. In support of the instant revisional application, learned advocate for the defendants/revisionists at the very outset draws attention of this Court to the impugned order. Attention of Court is also drawn to a photocopy of judgment dated January 30, 2008 as passed in Title Suit No. 196 of 1986 by the learned Civil Judge (Junior Division), 1st Court at Sealdah.
8. It is contended on behalf of the defendants/revisionists that in the said suit between the self-same parties in respect of the suit property, learned Civil Judge (Junior Division), 1st Court Sealdah, declined to hold that the defendants were the tenant under the plaintiffs and, accordingly, the defendants are not liable to pay any rent either arrears or current in respect of the suit property. It is contended further on behalf of the

defendants/revisionists that the said suit was challenged before the appellate court where an order was passed by the appellate court directing the learned Civil Judge (Junior Division), 1st Court, Sealdah to grant opportunity to both the parties to the said suit to adduce evidence afresh for disposal of the issue nos. 4 and 5 as involved in Title Suit No. 196 of 1986 and challenging the said judgment of the appellate court, the present defendants/revisionists have preferred a First Miscellaneous Appeal before this Hon'ble Court which is still pending.

9. It is submitted by Mr. Halder, learned advocate for the defendants/revisionists that since the adjudication of title in respect of the suit property is pending before this Hon'ble Court in FMAT No. 879 of 2010 renumbered as FMA No. 1357 of 2013, learned Trial Court is not at all justified in passing the impugned order holding that there exists a relationship of landlord and tenant between the plaintiffs and the defendants in Ejectment Suit No. 67 of 2013.
10. Mr. Das, learned advocate for the plaintiffs/opposite parties, however, opposes such contention. It is contended by Mr. Das, that learned Trial Court is perfectly justified in passing the impugned order since while disposing a petition under Section 7(2) of the said Act of 1997, learned Trial Court is duty bound to dispose of all the disputes as raised by the defendants/revisionists in a suit for eviction. It is also

submitted by Mr. Das that learned Trial Court in the impugned order specifically mentioned that the determination of relationship as well as the adjudication of the period of default is primary in nature and the same is subject to final determination of the said suit as pending before the learned Trial Court.

11. On perusal of the entire materials as placed before this Court and after hearing the learned advocates for the contending parties, it appears to this Court that learned Trial Court is very much justified in passing the impugned order holding that there exists a relationship of landlord and tenant between the plaintiffs and the defendants and the defendants are defaulter in payment of rent for a certain period which is specifically mentioned in the said impugned order. It also reveals to this Court that the learned Trial Court came to such finding after considering the materials as placed before him while disposing the petition under Section 7(2) of the said Act of 1997 and while passing the impugned order, the said Trial Court rightly observed that the finding in the impugned order is subject to the final determination of Ejectment Suit No. 67 of 2013.
12. In view of the discussion made hereinabove, this Court finds no illegality and/or infirmity in the impugned order for which this Court also finds no requirement of any interference with the impugned order.

13. Accordingly, the instant revisional application being **CO 1908 of 2022** is dismissed on contest. Consequently, the impugned order dated March 31, 2022 as passed by the learned Civil Judge (Junior Division), Additional Court at Sealdah, District – South 24 Parganas in Ejectment Suit No. 67 of 2013 is hereby affirmed.
14. Considering the fact that the because of the pendency of the instant revisional application, the present defendants/revisionists could not deposit the arrears of rent together with statutory interest as calculated by the learned Trial Court within time framed by the learned Trial Court, defendants/revisionists of the instant revisional application are hereby directed to deposit the said sum of Rs. 25,432/- in favour of the plaintiffs within the last day of May, 2023 mandatorily.
15. Since before the learned Trial Court, Ejectment Suit No. 67 of 2013 is pending for the last ten years, learned Trial Court is hereby directed to dispose of Ejectment Suit No. 67 of 2013 **positively within a period of six months** from the date of communication of this order.
16. It is made clear that the time limit as fixed by this Court for disposal of Ejectment Suit No. 67 of 2013 shall have to be mandatorily followed by the learned Trial Court and the learned Trial Court shall not grant any unnecessary adjournment to either sides.
17. All interim applications are hereby disposed of.

18. All interim orders, if any, stands hereby vacated.
19. Urgent photostat certified copy of this order, if applied for, be given to the parties, upon compliance of necessary formalities.

(Partha Sarathi Sen, J.)