

07.08.2023
Court No. 19
Item No.220
CP

C.O. 2047 of 2023

Bappa Pramanick

Vs.

Basanta Mondal

Mr. Pronay Basak

Mr. Pijus Kanti Ghoshal

...for the petitioner.

The defendant has challenged the order dated May 31, 2023, passed by the learned Civil Judge (Junior Division), 5th Court, Alipore.

The court does not deem it necessary to entertain this revisional application, as admittedly the learned court below did not pass any order which was either without jurisdiction or without considering the evidence on record. The subsequent discovery of the rent receipts for the month of December, 2022 and January, 2023 are at best grounds for review and the petitioner is at liberty to prefer an application for review, strictly in accordance with law.

With regard to the default for the 24 months, namely between May, 2017 to April, 2019, the learned court found that there were no documents to show that the rent had been paid.

The petitioner submits that the rent was paid to the landlord and the landlord did not issue any receipt. It is also submitted that an application under

Order 11 Rule 14 of the Code of Civil Procedure is pending. That the learned court erred in disposing of the application under Section 7(2) of the West Bengal Premises Tenancy Act, without considering the application under Order 11 Rule 14 of the Code of Civil Procedure. It appears that the petitioner prayed for production of the rent agreement and rent receipts from 2012 to 2018, but the arrears have been determined from May 2017 to April 2019.

This court is of the view that the points raised by the petitioner may be raised by filing an application for review as grounds for recalling an order passed by the court are limited.

The review shall be filed within ten days from date and the learned court below shall decide the review first. As there is no indication that an application under section 7(3) has been filed, the apprehension that defence will be struck off is misconceived.

The order of payment shall become operative once the review is decided.

The revisional application is accordingly disposed of.

There shall be no order as to costs.

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

(Shampa Sarkar, J.)