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C.O. 2007 of 2022

**Dipak Guin
Vs
Subhankar Chatterjee**

Mr. Deepak Basu,
Mr. Siddhartha Lahiri,
Mr. Debraj Dutta,

... For the petitioner.

Mr. Asit Baran Raut,
Mr. Tuhin Subhra Raut,
Ms. Ishita Raut,
Ms. Shrabani Dey,
Mr. Asit Kumar Chowdhury,

... For the opposite party.

The subject matter of challenge in this case is against the rejection of a petition filed by the petitioner/plaintiff praying for dismissal of an application under Section 7 (2) of the West Bengal Premises Tenancy Act filed by the opposite party/defendant.

Admittedly, a suit has been instituted at the instance of the petitioner/plaintiff seeking eviction upon describing the defendant to be trespasser.

There has been disclosure taking resort to the provisions available under Section 2g of the West Bengal Premises Tenancy Act.

In the pending litigation, defendant filed a petition under Section 7 (2) of the West Bengal Premises Tenancy Act upon making reference of a letter, allegedly issued by the plaintiff, leaving some

materials therein, supportive of a claim of tenancy.

Mr. Deepak Basu, learned advocate appearing for the petitioner/plaintiff submits that the learned Court below has pre-judged the application under Section 7 (2) of the West Bengal Premises Tenancy Act making some observations in the impugned order, which would cause serious prejudice to the plaintiff's valuable rights.

Per contra, Mr. Asit Baran Raut, learned advocate appearing for the opposite party submits that the Court below has simply passed an order intending to give an opportunity to make submission regarding accrual of tenancy right, if any, pursuant to the letter, allegedly issued by the plaintiff leaving some materials, supportive of claim of tenancy.

It is thus contended by Mr. Raut that such observations of the Court below would not amount to pre-judging the suit.

The bone of contention between the parties is with respect to some observations of the Court below while deciding an application challenging the maintainability of a petition filed by the petitioner/landlord against a petition filed under Section 7 (2) of the West Bengal Premises Tenancy Act by defendant/opposite party.

Upon perusal of the impugned order, it appears that the Court is yet to ascertain the claim of accrual

of tenancy right, if there be any, and simply intended to give a hearing to the opposite party, nothing more.

Admittedly, the application filed under Section 7 (2) of the West Bengal Premises Tenancy Act in a suit for eviction of a trespasser, has not yet been decided in accordance with law. It is still pending.

No further elaboration as such is necessary.

The revisional application stands disposed of directing the Court below to hear out the interlocutory petition filed by the opposite party/defendant without being influenced by the observations made in the order dated 08.06.2022.

It is desirable that the fate of the petition filed by the defendant/opposite party may be independently decided providing an opportunity of hearing to either of the parties to this case.

The petitioner is given liberty to re-agitate all the points pertaining to the law as well as the facts in denial of the letter, if there be any, issued in favour of the opposite party/defendant giving rise to a claim of accrual of tenancy right, if any.

Both the parties are directed to make communication of this order to the learned Court below.

With this observation and direction, the revisional application stands disposed of.

Urgent photostat certified copy of the order, if

applied for, be given to the parties on usual undertakings.

(Subhasis Dasgupta, J)