

Item No. 37
04.09.2023
Court. No. 19
GB

C.O. 2789 of 2023

Smt. Anjali Basak & Anr.
Vs.
Sri Jyoti Prakash Das & Ors.

Mr. Chandra Sekher Banerjee,
Mr. Shamit Dutta

...for the Petitioners.

The revisional application has been filed challenging a portion of the order dated July 6, 2023, passed by the learned Judge, 3rd Bench, Presidency Small Causes Court at Calcutta in Ejectment Suit No.183 of 2014. By the said decision, two orders were passed. First, a belated application filed by the defendant for leave to deposit outstanding dues towards arrear rent from October 2015, was denied. The petitioners have rightly not challenged the said portion of the order. In the matter of ***Bijay Kumar Singh & Ors. versus Amit Kumar Chamariya & Anr.*** reported in ***(2019) 10 SCC 660***, the Hon'ble Apex Court has finally settled the scope of Section 7 of the West Bengal Premises Tenancy Act, 1997.

With regard to the second part of the order, the petitioners prayer for repair of the bathroom, and privy in the tenanted property, was denied. The learned court below rejected such application, on two grounds:-

- a) That any addition and alteration may change the nature and character of the suit property which may ultimately create a difficulty to identify the property in question.

b) Without ascertaining the correct status and condition of the bathroom and privy, it was not possible for the court to allow a repair.

It also appears that the tenant is a defaulter and this is a suit for eviction under the West Bengal Premises Tenancy Act, 1997, inasmuch as, the arrear dues have not been paid.

Under such circumstances, this Court does not find any reason to interfere with the order impugned. The order impugned is upheld. The right of the petitioners to approach the court for inspection of the alleged dilapidated bathroom and privy, in order to bring on record the actual picture as to whether repair would be necessary till the suit is decided, is left open to be decided by the learned court below in accordance with law, if the court is approached.

Accordingly, the revisional application is disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties on priority basis.

(Shampa Sarkar, J.)