

August 21, 2023
Sl. No.04
Court No.19
s.biswas

CO 2725 of 2022

Smt. Mita Commar and another
vs.
Sri Tapan Kumar Sen and another

Mr. Asit Baran Raut
Mr. Tuhin Subhra Raut
Ms. Ishita Raut

... for the petitioners

This revisional application arises out of an order dated June 22, 2022 passed by the learned Chief Judge, City Civil Court at Calcutta, in Misc. Case No.3384 of 2016.

By the order impugned, an application under Section 151 of the Code of Civil Procedure, dated July 23, 2019 filed by the petitioners in the said misc. case, was rejected. By the said application, the petitioners wanted permission from the court to change the tenancy from Sonali Ash to Debajyoti Ash, on the prayer of Debajyoti Ash, by letter dated April, 2019.

Learned court below found that the petitioners could proceed on the basis of the applicable law, namely, West Bengal Premises Tenancy Act, 1997. On the death of a tenant the legal effect of such death as per law would be applicable. In the proceedings under Section 34 of the Indian Trust Act relating to management of the estate and administration of the same, death of the tenant would not be of any consequence.

It further appears that the petitioners have also filed an application for leave from the court to initiate legal proceedings against one of the defaulting tenants, who

had not paid rent for more than 30 years. The said application is pending.

This court is of the view that the pending application should be disposed of in accordance with law, upon giving opportunity to all the parties to contest the same within a period of two months from the next date fixed.

However, with regard to the order impugned, this court is of the view that the petitioners are at liberty to bring the factum of death of Sonali Ash on record by taking appropriate steps. The learned court below rightly held that application under Section 151 need not be allowed as the provisions of the West Bengal Premises Tenancy Act will take its own course.

The revisional application is thus disposed of.

All the parties are directed to act on the basis of the server copy of the order.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Shampa Sarkar, J.)