

September 29, 2023
Sl. No.13
Court No.19
s.biswas

CO 2989 of 2023

Reba Roy

vs.

M/s. Regent Services Private Limited

Ms. Soma Kar Ghosh

Mr. Arabinda Pathak

... for the petitioner

Ms. Sinthia Bala

... for the opposite party

Affidavit of service filed by the petitioner is taken on record.

This revisional application arises out of the order dated March 23, 2023 passed by the learned Civil Judge (Junior Division), 3rd Court, Alipore in Ejectment Suit No.25 of 2015.

The petitioner is the tenant. It appears that an application under Section 7(1) and 7(2) of the Premises Tenancy Act, 1997 had been disposed of in favour of the tenant, inter alia, holding that the tenant was not a defaulter.

It also appears that the written statement was filed on May 6, 2016. Thereafter the defendant failed to appear in the suit. The defendant was asked to show cause as to why the suit should not proceed ex parte. The defendant failed to show cause as directed by the court and the suit was fixed for ex parte hearing. Thereafter the defendant/petitioner filed two applications under Section 151 of the Code of Civil Procedure – one for acceptance of the belated

written statement and the other explaining/showing cause for the delay in filing written statement. Both the applications were rejected.

The learned advocate for the petitioner submits that although the written statement was belated, the same had already been filed on May 6, 2016 and the same was lying with the records of the court. There was a miscommunication with the learned advocate. Due to the illness of the mother and the son of the petitioner, she was unable to take proper steps and proceed with the suit.

Ms. Bala, learned advocate for the opposite party, submits that the learned court below passed a detailed order indicating as to why the written statement should not be accepted. In spite of several directions of the learned court, no steps had been taken to file the show cause within time. The reasons adduced by the petitioner explaining the delay in filing the written statement, was also found to be unsatisfactory.

Considering the fact that the written statement was already on record on and from May 6, 2016, although belated and further considering the fact that the tenant was not a defaulter, this court is of the view that one last chance should be given to the tenant to contest the suit.

Under such circumstances, the order impugned is set aside. The learned court below is directed to accept the written statement filed on May 6, 2016, upon being satisfied that cost of Rs.20,000/- has been paid to the plaintiff/landlord within two weeks from date. In case of default, the suit shall proceed ex parte.

The order by which the suit was fixed for ex parte hearing, stand recalled.

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.)