

Item No. 44
19.07.2023
Court. No. 19
GB

C.O. 3496 of 2022

Narendra Kumar Raijada
Vs.
Rukmini Devi Pareek & Ors.

*Mr. K.C. Garg,
Ms. S. Agarwal*

...for the Petitioner.

Mr. Dyutiman Banerjee

...for the Opposite Parties.

The revisional application has been filed challenging an order dated September 22, 2022 passed by the learned Civil Judge (Junior Division), 3rd Additional Court at Alipore in Ejectment Suit No.338 of 2018, by which the learned court below found the petitioner to be a defaulter and directed the arrears of Rs.12034/- be deposited by challan in two equal instalments, i.e., Rs.6017/- each, within a month. The monthly rent from October 2022 onwards was also directed to be paid.

It is submitted that the rent from October 2022 has been paid month by month. It is further submitted that the revisional application has been filed on the ground that the learned court did not consider the challans showing deposit of rent for the preceding period, which would indicate that there were no arrears.

The law is clear. In order to obtain protection from eviction, the tenant has to deposit the arrear rent. As the learned court below has come to the finding that there are arrears of rent of Rs.12034/-, this Court is of the view that

the said amount should be deposited. The learned court below dealt with the challans filed by the defendants in respect of the contention that the petitioner was in arrears.

As the learned court below went through the challans submitted by the defendant and there is nothing annexed to this revisional application which would indicate anything contrary to what the learned court held, this Court is of the view that the order impugned does not call for any interference. The same was decided upon taking into consideration the challans. The amount directed to be deposited will be deposited by the petitioner within a month from date. The suit shall proceed in accordance with law. The period between which the order was passed and the revisional application was pending before this Court shall not be treated as delay as it is not due the petitioner's fault that the matter could not be listed and was not heard on time.

Moreover, the findings in an application under Section 7(2) are tentative and the issue of default shall be decided as a separate issue at the trial. The points urged in the revisional application, shall be open to the petitioner to be taken at the trial. If any excess payment is found to have been made, the same shall be subject to the result of the suit.

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.)