

21.6.2023
ct. 236
sk,sl. 28

C.O. 3973 of 2014

Prabhu Dayal Kedia-vs-Nitish Kanoria

None appears on behalf of the petitioner.

This revisional application under Article 227 of the Constitution of India challenges Order No. 16 dated 12th November, 2014 passed by the learned Judge, Vith Bench of the Small Causes Court at Calcutta in Ejectment Suit No. 139 of 2013.

Upon perusal of impugned order I find that the defendant/petitioner in the suit for eviction filed an application under Section 7(2) of the W.B.P.T.Act, 1997 on 3.5.2013 praying for order determining the arrears of rent and to allow him to deposit the same in court together with accrued interest. The learned trial court upon perusal of pleadings of the parties observed that the defendant/tenant admittedly has not been paying rent on and from September, 2012. The defendant also stated the said fact in his application.. The plaintiff in his plaint stated that rate of rent was Rs. 220/- payable according to English Calendar month, the defendant also filed a rent receipt showing the payment of rent @ Rs. 220/-. Therefore, the learned trial court refused to determine the arrears of rent and was pleased to dismiss the application.

Learned trial court failed to exercise jurisdiction is vested upon it.

In my humble opinion, the order should not be allowed to remain in force and should be set aside which I accordingly do.

The learned trial court is directed to admit the application under Section 7(2) of the W.B.P.T. Act, 1997 to its file and dispose of the same afresh, determining the arrears of rent to be paid by the defendant/petitioner coupled with accrued interest and dispose of the application accordingly.

The revisional application is allowed and disposed of..

(Siddhartha Roy Chowdhury, J)