

January 29, 2024
Sl. No.15
Court No.19
s.biswas

CO 143 of 2024

Mrs. Nandita Roy
vs.
Mr. J. Seshu Rao

Mr. Sourav Sen
Ms. Jayashree Patra
Ms. Pritha Sinha

... for the petitioner

This court does not find any reason to interfere with the order dated December 8, 2023, passed by the learned Civil Judge (Junior Division), 3rd Court, Alipore, South 24 Parganas.

The petitioner's application for withdrawal of the application for appointment of a learned advocate commissioner, was rejected. The learned court was of the view that the question whether the suit will be decreed under Section 2(g) of the West Bengal Premises Tenancy Act, 1997 or on any other ground, was a matter of trial. The commission should be held. The suit was filed for eviction on the ground of reasonable requirement. However, upon the alleged death of the original tenant, further ground for eviction under Section 2(g) of the said Act was incorporated in the plaint by an amendment.

The court is right in observing that in case the contentions of the plaintiff that the defendant had ceased to be a tenant under Section 2(g) of the 1997 Act failed, then the suit would proceed as a suit for

eviction on the ground of reasonable requirement. In that event, commission would be necessary.

Under such circumstances, this court is of the view that the order impugned does not suffer from any material irregularity at this stage. The consequences of the commissioner's report will be subject to the decision of the suit on the issue of Section 2(g) of the 1997 Act. This court directs that the suit should be disposed of within a year.

The revisional applications stands disposed of accordingly.

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.)