

Item No. 6
01.02.2024
Court. No. 19
GB

C.O. 298 of 2023

Suvra Chowdhury
Vs.
Rina Haldar & Ors.

Mr. Sanjay Mukherjee

...for the Petitioner.

*Mr. Rajdeep Bhattacharya,
Mr. Debashis Banerjee,
Mr. Arpayan Mukherjee*

...for the Opposite Parties.

1. The revisional application arises out of an order dated November 15, 2022, passed by the learned Civil Judge (Junior Division), 2nd Court at Alipore in Ejectment Suit No.218 of 2010.
2. By the order impugned, the learned court allowed the substituted heirs of the original defendants/tenants to pay Rs.42,188/- as arrear rent as also monthly rent from May 2022 at the rate of Rs.1125/- per month, on the basis of a belated application. The arrear deposit was directed to be paid by a demand draft, payable at Kolkata, in the name of the plaintiff or by civil deposit challans in court, within thirty days from the date of the order. The monthly rent was directed to be paid to the plaintiff in cash, by hand, with proper receipt, or by demand draft or by way of civil deposit, month by month.
3. The plaintiff/petitioner challenges the order on the following grounds:-

- a) The provisions of section 7(1) of the West Bengal Premises Tenancy Act, 1997 (hereinafter referred to as the 'said Act') squarely applies to the substituted heirs.
 - b) The substituted defendants ought to have come within one month from the date of knowledge of the suit/order of substitution.
 - c) The learned court did not take into account the contradictions in the application filed by the substituted defendants/opposite parties herein.
 - d) The substituted defendants have stated in one paragraph that they had appeared without service of summons and in another paragraph it had been stated that they could not contact the learned advocate due to the pandemic.
4. The issues in this revisional application are, whether the substituted defendants ought to have come within one month from the date of knowledge of the suit/order of substitution or from one month from receipt of summons and deposited the admitted arrears along with the application filed by them.
5. In my opinion, the learned court had not taken into consideration the effect of Section 7(1) of the said Act, while deciding the application. The date of knowledge of the suit or date of service of summons, as the case may be, the time frame under Section 7(1) of the said Act, within which the defendants ought to have approached the court and whether there should be strict compliance of Section 7(1) of the said Act, were issues to be decided in

this proceeding. The learned court only took into account the *bona fide* intention of the tenants to proceed in the suit.

6. The revisional application is thus, allowed.
7. The order impugned is set aside. The matter is remanded back to the learned Civil Judge (Junior Division), 2nd Court at Alipore to decide the application filed by the tenants dated May 10, 2022, afresh. Such application shall be decided on the basis of the evidence available.
8. Parties are at liberty to adduce their oral and documentary evidence in support of their rival contentions, arising out of the said application. The application shall be disposed of within a period of two months from date.
9. Accordingly, the revisional application is disposed of.
10. However, there shall be no order as to costs.
11. All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)