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June, 2024
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Ct. 19
10.06.2024

*In The High Court At Calcutta
Civil Revisional Jurisdiction
(Appellate Side)*

C.O. 344 of 2024

**Indrajit Modak
Vs.
Smt. Maya Rani Mondal (since deceased) & Ors.**

Mr. Sanat Kumar Biswas ... For the petitioner.

Mr. Balaram Neogi ... For the O.P. Nos. 1 to 5.

Affidavit-of-service filed on behalf of the petitioner be kept with the record.

The revisional application under Article 227 of the Constitution of India is at the instance of the defendant in a suit for ejectment and is directed against the order dated December 11, 2023 passed by the learned Additional Civil Judge, (Junior Division), Sealdah, in the said suit being Ejectment Suit No. 316 of 2005.

The plaintiffs/opposite parties by an application under section 7(3) of the West Bengal Premises Tenancy Act, 1997 had prayed that the defense of the defendant/petitioner be struck off for his failure to comply with the order dated November 27, 2018 passed under section 7(2) of the said Act of 1997.

The learned Trial Judge by the order impugned has allowed the said application of the plaintiffs/opposite parties.

The learned advocate for the petitioner submits that the learned Trial Judge should not have allowed the application of the plaintiffs under section 7(3) of the said Act of 1997

for non-compliance of the order dated November 27, 2018 as the said order was subsequently modified.

It appears from the record that the learned Trial Judge by the order dated September 08, 2023 had recalled the said order dated November 27, 2018 as there was some mistake in the calculation of arrear rent, the plaintiffs' application under section 7(3) of the said Act of 1997 was filed prior to such modification.

The order impugned therefore suffers from material irregularity and is accordingly set aside.

Upon recalling of the said order dated November 27, 2018, the learned Trial Judge is obliged to recalculate the payable arrear rent under section 7(2) of the said Act of 1997.

Mr. Neogi, learned advocate for the plaintiffs submits that the payments under sections 7(1) and 7(2) of the said Act of 1997 may be directed to be paid to the bank account of any of the plaintiffs nominated by the others.

Mr. Biswas, learned advocate for the defendant does not object to the said prayer of the plaintiffs.

Subject to furnishing of the particulars of the bank account of the nominated plaintiff, the learned Trial Judge shall pass necessary orders regarding payments under sections 7(1) and 7(2) of the said Act of 1997 to the landlords.

C.O. 344 of 2024 is disposed of with the above observations without any order as to costs.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)