

M/L 85
19.6.2024
Court No.19
SD

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION

CO 587 of 2024

Ratan Kumar Halder @ Ratan Halder @ Ratan Lal Halder
Vs.
Subal Ghosh

Mr. Tarak Nath Halder

...for the Petitioner.

*Mr. Kushal Chatterjee
Mr. Debrup Choudhury
Mr. Aveek Saha
Mr. Shameek Saha*

...for the Opposite Party.

The revisional application under Article 227 of the Constitution of India is at the instance of the plaintiff in a suit for ejectment being Ejectment Suit No.16 of 2022 and is directed against the order dated October 17, 2023 passed by the learned Civil Judge (Junior Division), Bidhannagar, District 24 Parganas (North).

The learned Trial Judge by the order impugned has overruled the objection of the petitioner as to the maintainability of an application for condonation of delay in filing the applications under Sections 7(1) and 7(2) of the West Bengal Premises Tenancy Act, 1997.

The learned Trial Judge while coming to his aforesaid conclusion has placed reliance on the decision of the learned Single Judge of this Court in the Case of ***Bahadur Singh Kathodia vs. Purabi Basu*** reported in ***(2023) 1 RCR (Rent) 342.***

In view of the decision of the Special Bench of this Court dated December 20, 2023 passed in C.O. No.64 of 2023 ***(Smt. Binika Thapa (nee Rai) & Anr. Vs. Smt. Damber Kumari Mukhia & Anr.)***, the decision of ***Bahadur Singh Kathodia (supra)*** is no longer a good law, besides the

learned Trial Judge has erroneously interpreted the decision of the Hon'ble Supreme Court in the case of ***Bijay Kumar Singh & Ors. vs. Amit Kumar Chamariya & Ors.***, reported in ***(2019) 10 SCC 660***.

In the said decision, the Hon'ble Supreme Court has held that the tenant will not be able to take recourse of Section 5 of the Limitation Act, 1963 in maintaining application under Section 7 of the Said Act of 1997.

Mr. Chatterjee, learned advocate for the opposite party submits that the applications filed by his client under Sections 7(1) and 7(2) of the said Act of 1997 are within time, as such, to maintain those applications, his client need not take resort to Section 5 of the Limitation Act, 1963. In view of such stand of the tenant, the said application under section 5 of the Limitation Act, 1963 is dismissed.

The learned Trial Judge shall now proceed to dispose of the said applications under Sections 7(1) and 7(2) of the said Act of 1997 expeditiously, in accordance with law, preferably within a period of four weeks from the date of communication of this order, and in doing so, shall not entertain the prayer of the parties for any unnecessary adjournment.

As prayed for by Mr. Halder, the petitioners are at liberty to question the maintainability of the said applications.

CO 587 of 2024 is disposed of with the above observations, there shall however be no order as to costs.

Parties to act on the server copy of this order duly downloaded from the official *website* of this Court.

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

(Biswajit Basu, J.)