

18.09.2024
Item No.91 ML
Ct.19
A.J.

**IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION**

C.O. 931 of 2024

Goutam Chatterjee

-Vs-

Khokan Roy & Ors.

Mr. Sanjay Saha.

.....for the petitioner.

Mr. Rwitendra Banerjee,

Mr. Shibasis Chatterjee.

.....for the opposite party no.3.

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

The plaintiff in a suit for eviction under Section 6 of the West Bengal Premises Tenancy Act, 1997 is the petitioner of the instant application under Article 227 of the Constitution of India which is directed against Order No.24 dated December 18, 2023 passed by the Additional Court of the learned Civil Judge (Junior Division) at Lalbag, District: Murshidabad in the said suit being *Title Suit No. 308 of 2019*.

The sole defendant died before service of summons; the heirs and legal representatives of the deceased defendant were substituted in the suit.

The defendant no.3 is contesting the suit claiming that the tenancy has devolved upon him. The said defendant though had filed the application under Sections 7(1) and 7(2) of the West Bengal Premises Tenancy Act, 1997 within the period of limitation and has deposited the arrear rent with statutory interest thereon and was depositing the current rent, but defaulted in depositing the current rent for the period

from January 2022 to October 2023. The said defendant had filed an application on November 18, 2023 praying permission to deposit the arrear rent for the said period.

The learned Trial Judge by the order impugned has granted such permission and has also disposed of the said application under Section 7(2) of the said Act of 1997.

In view of the judgment of the Special Bench of this Court in the case of ***SMT. BINIKA THAPA (NEE RAI) & ANR. -VS- SMT. DAMBER KUMARI MUKHIA & ANR.*** reported in ***2023 SCC online Calcutta 5478***, extension of time to comply with the requirement of Section 7(1)(c) of the said Act of 1997 is not permissible.

The order impugned therefore is set aside. The application of the defendant no.3 dated November 18, 2023 is dismissed.

C.O. 931 of 2024 is thus allowed without any order as to costs.

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

(Biswajit Basu, J.)