

02.09.2024
Item No.07 ML
Ct.19
A.J.

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

C.O. 953 of 2024

Mukesh Chand Sethia

-Vs-

Orchid Towers Private Limited

Mr. Debjit Mukherjee,
Mr. Prasant Kumar Singh.
.....for the petitioner.

Mr. Rahul Karmakar,
Ms. Sinthia Bala,
Ms. Easha Merchanda.
.....for the opposite party.

This is an application under Article 227 of the Constitution of India.

The order dated December 19, 2023 passed by the 3rd Court of the learned Civil Judge (Junior Division), Alipore, District : 24-Parganas (South) in Ejectment Suit No.310 of 2019 is under challenge.

The petitioner is the defendant of the said suit.

The learned Trial Judge by the order impugned has refused to accept the belatedly filed written statement and has dismissed the applications under Sections 7(1) and 7(2) of the West Bengal Premises Tenancy Act, 1997 filed by the petitioner on the ground that the suit, not being a suit under Section 6 of the said Act of 1997, the said applications are not maintainable.

It appears from the record that the petitioner on November 10, 2022, had appeared in the suit without service of summons and had

prayed for a direction upon the plaintiff for service of the copy of the plaint upon him.

The learned Trial Judge had directed the plaintiff to supply such copy and had adjourned the suit to December 21, 2022.

The copy of the plaint was served upon the petitioner on December 20, 2022 at late afternoon and pursuant thereto, the defendant had filed the written statement on April 17, 2023. The time to file written statement must be reckoned from the date of service of the copy of the plaint and the starting point of limitation, if so reckoned, the written statement was filed within the stipulated period of 120 days, therefore, the order impugned refusing to accept the written statement of the petitioner, is set aside.

However, the part of the said order whereby the learned Trial Judge has dismissed the applications under Sections 7(1) and 7(2) of the said Act of 1997 on the ground that it is not a suit under Section 6 of the said Act of 1997 does not call for any interference.

C.O. 953 of 2024 is disposed of with the above terms without any order as to costs.

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

(Biswajit Basu, J.)