

S/L 25
07.8.2024
Court No.19
SD

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION

CO 991 of 2024

Arun Kumar Srestha
Vs.
Tarun Kumar Routh & Anr.

Mr. Rabindranath Mahato
Mr. Aritra Shankar Ray

...for the Petitioner.

Mr. Tapas Kr. Dey
Mr. Snehasis Jana

...for the Opposite Parties.

The defendant in a suit for eviction is the petitioner of the instant application under Article 227 of the Constitution of India which is directed against the Order No.344 dated January 4, 2024 passed by the 1st Court of learned Civil Judge (Junior Division) at Midnapore, District: Midnapore (West) in *Other Suit No.109 of 1996*.

The learned Trial Judge by the order impugned has allowed an application under Section 17(3) of the West Bengal Premises Tenancy Act, 1956 thereby struck off the defence of the petitioner against the delivery of possession.

It appears that the learned Trial Judge has erroneously assessed the rate of rent at Rs.350/- per month whereas it is Rs.150/- per month as it appears from the order dated March 07, 2016 passed in *CO 616 of 2016*. There is no doubt that there was some delay in depositing the current rent but the finding of the learned Trial Judge in the order impugned that the petitioner on his own

accord has deposited current rent at the rate of Rs.150/- even after determination of the said rate at Rs. 350/- is completely erroneous, as such, default in payment of current rent at the said rate cannot entail allowing an application under Section 17(3) of the said Act of 1956.

The order impugned therefore is not sustainable and is accordingly set aside. The application filed by the plaintiffs under Section 17(3) of the said Act of 1956 is dismissed.

CO 991 of 2024 is allowed without any order as to costs.

The disposal of the suit be expedited.

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

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

(Biswajit Basu, J.)