

February 2, 2024
Sl. No.11
Court No.19
s.biswas

CO 2039 of 2023

Smt. Supriya Das
vs.
Smt. Pramita Dutta

Mr. Kishore Mukherjee

... for the petitioner

This court does not find any reason to interfere with the order dated May 6, 2023. By the order impugned, the learned court rejected an application questioning the maintainability of the application under Order 9 Rule 13 of the Code of Civil Procedure. The application was filed by the married daughter of the original tenant. The court was of the view that the said application was premature.

Mr. Mukherjee, learned advocate appearing for the petitioner/landlord submits that the father of the opposite party was the tenant. After the father died, the widow had a right to reside in the premises. The widow continued to reside in the premises. The widow expired. The application under Order 9 Rule 13 of the Code of Civil Procedure, at the instance of a married daughter who was not residing in the tenanted property, was not maintainable. The married daughter was not covered by the definition of tenant under Section 2(g) of the Premises Tenancy Act, 1997.

The learned court has kept the miscellaneous case pending. The point of maintainability of the

miscellaneous case along with the merits of the miscellaneous case will be decided and disposed of accordingly. The petitioner can raise all the points raised in this revisional application before the learned court below. The miscellaneous case shall be disposed of within a period of next two months.

As this court does not interfere with the order impugned, the question of service of notice does not arise. The direction for expeditious disposal enures to the benefit of the opposite party as well. Thus, the matter is being disposed of without calling upon the opposite party to appear in this proceeding.

The petitioner is at liberty to communicate this order to the opposite party along with the copy of this revisional application.

The revisional application stands disposed of accordingly.

All the parties are directed to act on the basis of the server copy of the order.

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

(Shampa Sarkar, J.)