

24.07.2024
(D/L-19)
Ct.-19
(Susanta)

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION

C.O. 2543 of 2024

Jayanta Basak & Ors.
-Vs-
Ashok Basak & Ors.

Mr. Krishana Das Poddar, ... For the Petitioners.

Mr. Abhijit Ray.
Mr. Goutam Ray, For the Opposite Parties.

The instant application under Article 227 of the Constitution of India is at the instance of the defendants in a suit for eviction which is directed against the Order No. 75 dated April 30, 2024 passed by the learned Judge, 6th Bench, Presidency Small Cause Court, Calcutta in the said suit being Ejectment Suit No. 68 of 2013.

The defendants though had paid the arrear rent assessed under Section 7 (2) of the West Bengal Premises Tenancy Act, 1997(hereinafter referred to as 'the said Act of 1997' in short) but had defaulted in depositing the current rent since the month of October, 2019.

The defendant no.1 took out an application seeking permission to deposit the said arrear rent but the learned Trial Judge, by the order impugned has refused to grant such permission.

Mr. Poddar, learned advocate for the petitioners submits that the said default was caused due to the death of the defendant no. 2 but as soon as the heirs and legal representatives of the said deceased defendant were

substituted, the defendants applied for permission to deposit the rents, which became arrear by the time.

Mr. Roy, learned advocate for the opposite parties submits that the defendant no.1 was very much alive but he did not take any steps to deposit the current rent, but now he has come with an application seeking permission to deposit the arrear rent.

Heard learned advocate for the parties, perused the materials-on-record.

It appears that the defendant nos. 1 & 2 are brothers, they are holding the tenancy in joint, as such on the death of one of them, the obligation to comply with the requirement of the provision of Section 7(1)(c) of the said Act of 1997 does not cease to operate.

The learned Trial Judge, therefore, has not committed any jurisdictional error in refusing to grant permission to the defendants to deposit the arrear rent.

The order impugned does not call for any interference, C.O. 2543 of 2024 is dismissed with the above observations without any order as to costs.

The learned Trial Judge is requested to expedite the disposal of the said suit.

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 with all requisite formalities.

(Biswajit Basu, J.)