

*In The High Court At Calcutta
Civil Revisional Jurisdiction
(Appellate Side)*

C.O. No. 2724 of 2024

Sri Prafulla Sardar

Vs.

Smt. Mamata Saha

Mr. Sounak Bhattacharya,
Mr. Sounak Mandal,
Mr. Anirban Saha Ray ... For the petitioner.

Mr. Rajdeep Bhattacharya,
Ms. Adrija Bhattacharya ... For the opposite party.

The defendant/tenant in a suit for eviction is the petitioner of the instant application under Article 227 of the Constitution of India, which is directed against Order No. 158 dated July 02, 2024 passed by the 4th Court of learned Civil Judge, (Junior Division) at Alipore, District: 24 Parganas (South), in the said suit being *Title Suit No. 21 of 1998*.

In *C.O. 2687 of 2006* the petitioner had challenged the order no. 48 dated June 29, 2006 whereby the learned Trial Judge had disposed of the petitioner's application under Section 17(2) of the West Bengal Premises Tenancy Act, 1956.

His lordship, the Hon'ble Justice ***Prasenjit Mandal*** by the judgment and order dated December 14, 2010 had disposed of the said revisional application by affirming the said order dated June 29, 2006 but had granted liberty to the petitioner to deposit the assessed arrear rent under Section 17(2) of the said Act of 1956 by four equal monthly installments commencing from January 2011.

The petitioner had deposited the said arrear rent and by an application dated December 14, 2010 prayed for such deposit may be accepted.

The petitioner had filed another supplementary application for acceptance of the current rent for the period from June, 2006 to November, 2010 which he allegedly could not deposit in time as

the further proceeding of the suit was stayed by an order passed in the aforementioned revisional application.

Pending disposal of the said two applications, the learned Trial Judge by the Order No. 134 dated July 14, 2018 had allowed an application under Section 17(3) of the said Act of 1956, the petitioner had challenged the said order in *C.O. 2627 of 2018*.

This Court, by the order dated November 20, 2018 had allowed of the said revisional application, by setting aside the order impugned therein with the following observations:

“The Learned Trial Judge is requested to hear the applications dated January 10, 2011 and February 2, 2011 filed by the defendant first and after disposal of the said applications the application filed by the plaintiff under Section 17(3) of the said Act be disposed of...”

Pursuant to the aforementioned direction the learned Trial Judge, has disposed of the said application dated January 10, 2011 only and has posted the suit for peremptory hearing keeping the said supplementary application pending.

Mr. Rajdeep Bhattacharya, learned advocate for the plaintiff submits that his client has no objection in the application dated January 10, 2011 is allowed but has definite objection in allowing the application dated February 02, 2011 as the stay of further proceedings of the suit cannot be the ground for not depositing the current rent within the prescribed time.

The order impugned lacks clarity, the learned Trial Judge by the said order has dealt with the application dated November 10, 2011, however in view of the stand of the plaintiff, the assessed arrear rent under section 17(2) of the said Act of 1956 be accepted, in consequence, the order impugned is not interfered with.

However, in view of the direction passed in *C.O 2627 of 2018*, the learned Trial Judge is obliged to dispose of the supplementary application dated February 02, 2011.

The learned Trial Judge therefore is directed to dispose of the said application in accordance with law, and in view of the long pendency is further requested to expedite the disposal of the suit.

C.O. 2724 of 2024 is disposed with the above terms without any order as to costs.

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.)