

ML41
September
sandip
Ct. 19
02.09.2024

*In The High Court At Calcutta
Civil Revisional Jurisdiction*

C.O. No. 3095 of 2024

Swapan Bhowmick

Vs.

Sanchindra Mohan Dhar & Ors.

Mr. Gautam Chakraborty,
Mr. Pulak Ray ... For the petitioner.

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

The Order No. 19, dated April 23, 2024 passed by the learned Judge, 3rd Bench, Presidency Small Causes Court at Calcutta, in *Ejectment Suit No. 275 of 2021*, is under challenge in the present revisional application.

The petitioner is a defendant in the connected Ejectment Suit.

The defendant had filed an application under Section 151 of the Code of Civil Procedure praying permission to deposit arrear rent for the period from February 2023 to May 2023 alleging that he could not deposit the current rent for the said period due to his financial stringency.

The learned Trial judge by the order impugned has dismissed the said application and consequently has dismissed the application under section 7(2) of the West Bengal Premises Tenancy Act, 1997 and has allowed an application under section 7(3) thereof.

Mr. Gautam Chakraborty, learned counsel for the petitioner submits that though generally the extension of time to deposit the arrear rent is not permissible but when such extension is prayed for, pending disposal of an

application under section 7(2) of the said Act of 1997, the situation is otherwise and the Court ought to have extended the said time. Reliance is placed on the decisions of the Single benches of this Court in the cases of **Saurav Das vs. Kartick Dutta & Ors.**, reported in **2019 SCC Online Cal 9155** and **Mithun @ Akhtar Ali Vs. Sk. Aziz Haque & Ors.**, reported in **2017 SCC Online Cal 18467**.

Heard Mr. Chakraborty, perused the materials on record.

In view of the judgment of the Hon'ble Supreme Court in the case of **Bijay Kumar Singh & Ors. vs. Amit Kumar Chamariya & Anr.**, reported in **(2019) 10 SCC 660**, there is no scope to condone the delay in depositing the current rent under Section 7(1)(c) of the said Act of 1997 and the failure of the defendant to comply with the provision of section 7(1) of the said Act of 1997 would automatically attract the provision of section 7(3) thereof.

The order impugned for the aforesaid reasons does not call for any interference.

C.O. 3095 of 2024 is dismissed without any order as to costs.

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.)