

**IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION**

C.O. 3177 of 2022

**Vishnu Agarwal
Vs.
Arati Rai(Ram) & Ors.**

**Mr. Partha Pratim roy
Mr. D. Banerjee
Mr. D. Roy ... For the Petitioner.**

**Mr. Binayak Kumar Ghoshal
Mr. A.K. Dutta ... For the O.Ps.**

Learned Advocate for the petitioner and learned Advocate for the opposite parties are present.

Heard the learned Advocates for the parties.

This application is directed against an order dated 22.08.2022 passed by the learned Civil Judge, Junior Division, 3rd Court, Howrah in T.S. No. 1494 of 2018. Learned Judge was pleased to dispose of the petition under Section 7(2) of the West Bengal Premises Tenancy Act, 1997 by declaring the defendant as a defaulter since June, 2014 to August, 2022, total 92 months.

The defendant/petitioner in terms of such findings was directed to pay the arrear rent along with ten percent interest amounting to Rs. 1,30,680/- .

S.D.

The learned Advocate for the petitioner submits that although his client made deposit before the Rent Controller but there was technical mistake with regard to

the name of the plaintiff/landlord for which this deposits are not treated as valid deposits by the learned court below.

Learned Advocate further submits that although the rents are deposited but due to technical mistake his client should not be made to pay rent twice.

Learned Advocate also relies upon a decision of this Hon'ble Court reported in (1988)1 Cal J 34 (Nawal Kishore Agarwalla Vs. Samarendra Nath Shaw).

Learned Advocate for the opposite party submits that the defendant/petitioner has partly complied with the order and at present Rs. 65,340/- is remaining due and payable for which the petitioner sought for an extension before the learned court below.

Upon hearing the learned Advocates and considering the judicial decision relied upon, this court is of the view that in the interest of justice, the petitioner should be granted time to pay the balance amount by three installments and thereafter liberty to withdraw the amount which he had deposited before the rent controller.

Thus this application stands disposed of.

The petitioner is granted liberty to deposit Rs.65,340/- in three equal monthly installments. The first payment shall be made on or before 4th January, 2025 and the balance two installments shall be made within 4th day of the subsequent months.

Upon making the entire payments, the petitioner will be entitled to make application before the Rent Controller which the opposite party shall not oppose and extend all necessary cooperation so that the amount lying before the Rent Controller is withdrawn. Landlord will also have the liberty to take necessary steps for withdrawal of rent in accordance with law from the Learned Trial Court.

In the event, the petitioner fails to deposit Rs.65,340/- within three equal monthly installments, the learned court will be entitled to proceed in accordance with law.

It is however, made clear that this court has not gone into the merits of the case and all points are left open, to be decided by Learned Trial Court at the time of trial.

(Biswaroop Chowdhury, J.)

