

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

Before:

The Hon'ble Justice Hiranmay Bhattacharyya

CO 3452 of 2023

The West Bengal Handloom Weavers Cooperative Society Limited

Vs.

Jayanta Saha

For the Petitioner : Mr. Aniruddha Chatterjee,
Mr. Chayan Gupta
Mr. Soumyajyoti Nandy
Mr. Sayantan Chatterjee
Mr. Deepankar Thakur
...advocates

For the Opposite Party : Mr. Debjit Mukherjee
Mrs. Susmita Chatterjee
Mr. Kaustav Bhattacharyya
Ms. S. Chakraborty
Ms. Priyanka Jana
Ms. S. Das
... advocates

Reserved on : 06.05.2024

Judgment on : 14.05.2024

Hiranmay Bhattacharyya, J.:-

- 1.** This application under Article 227 of the Constitution of India is at the instance of the defendant and is directed against an order dated 2nd September, 2023 passed by the learned Civil Judge (Senior Division) 1st Court at Howrah in Title Suit no. 433 of 2022.
- 2.** By the order impugned, the application under Section 5 of the Limitation Act, 1963 stood rejected. Consequently, the applications under Sections 7(1) and 7(2) of the West Bengal Premises Tenancy Act, 1997 was rejected on the ground that the same were not filed within the stipulated period.
- 3.** Opposite party herein filed a suit for eviction inter alia on the ground of reasonable requirement. Petitioner filed the applications under Section

7(1) and 7(2) of the West Bengal Premises Tenancy Act, 1997 (hereinafter referred to as the “W.B.P.T. Act, 1997”). Petitioner also filed application under Section 5 of the Limitation Act praying for condonation of delay in filing the aforesaid application.

4. Opposite party contested the said application by filing written objection raising the point of maintainability of an application under Section 5 of the Limitation Act in connection with an application under Section 7(1) and 7(2) of the W.B.P.T. Act, 1997.
5. The learned Trial Judge rejected the application under Section 5 of the Limitation Act. Consequently, the application under Section 7(1) and 7(2) of the W.B.P.T. Act, 1997 was rejected.
6. Being aggrieved by the said order, the defendant has filed this Civil Revision Application.
7. Mr. Chatterjee, learned advocate for the petitioner contended that if the tenant disputes the amount of rent payable by him upon the suit being instituted under Section 6 of the W.B.P.T. Act, 1997, the tenant has a right to get such dispute adjudicated by filing an application under Section 7(2) of the said Act. He further submitted that by virtue of Section 40 of the W.B.P.T. Act, 1997, the Limitation Act 1963 had been made applicable to the proceedings under the W.B.P.T. Act, 1997. He also submitted that since the provisions of Section 7(2) of the said Act contemplates filing of an application, the provisions of Section 5 of the Limitation Act, 1963 shall be applicable to condone any delay in filing such application in view of Section 29(2) of the Limitation Act. He contended that in the absence of any express exclusion of applicability of the provisions of Section 5 of the Limitation Act at the stage of filing of application under Section 7(2) of the W.B.P.T. Act, 1997, the Court has the power to condone the delay in filing the application under Section 7(2) of the said Act. Mr. Chatterjee submitted that the decision of the Hon’ble Supreme Court in the case of ***Bijay Kumar Singh and ors. vs. Amit Kumar Chamariya and another*** reported at **(2019) 10 SCC 660** was passed in ignorance of the provisions of Section 40 of the W.B.P.T. Act, 1997 and Section 29(2) of the Limitation Act. He contended that the

aforesaid decision of the Hon'ble Supreme Court cannot be said to be a binding precedent as the same was passed in ignorance of the aforesaid statutory provision. He submitted that even the High Court can declare a decision rendered by the Hon'ble Supreme Court to be *per incuriam*. In support of the contention that the decision in **Bijay Kumar Singh** (supra) is *per incuriam*, he placed reliance upon the decisions of the Hon'ble Supreme Court in the case of **A.R. Antulay vs. R.S. Nayak and Another** reported at **(1988) 2 SCC 602**, **National Insurance Company Ltd. vs. Pranay Sethi and Others** reported at **(2017) 16 SCC 680**, **Dr. Shah Faesal and Others vs. Union of India and Another** reported in **(2020) 4 SCC 1**, **Secretary to Government of Kerala, Irrigation Department and Others vs. James Varghese and Others** reported at **(2022) 9 SCC 593**. Mr. Chatterjee also placed reliance upon the decision of the Hon'ble Supreme Court in the case of **Mukri Gopalan vs. Cheppilat Puthanpurayil Aboobacker** reported at **(1995) 5 SCC 5** in support of his contention as to applicability of Section 5 of the Limitation Act to a proceeding under the Rent Control Legislation.

8. Mr. Chatterjee also referred to a decision of the Hon'ble Bombay High Court in the case of **Jaydeo s/o Mahadeo Parate vs. State of Maharashtra & Other** reported at **2005 SCC Online Bom 1283** in support of his contention that the High Court is not necessarily bound to follow the decision later in point of time, but must follow the one which in its view is better in point of law.
9. Mr. Mukherjee, learned Advocate for the opposite party seriously disputed the submissions of Mr. Chatterjee. He contended that it is now well settled that Section 5 of the Limitation Act cannot be resorted to for condonation of delay in filing the application under Section 7(1) and 7(2) of the West Bengal Premises Tenancy Act. In support of such contention he placed reliance upon the decision of the Hon'ble Supreme Court in **Bijay Kumar Singh** (supra). He also placed reliance upon the coordinate bench decisions in the case of in the case of **Smt. Papiya Sengupta and Ors vs. Shri Suvasis Ghosh** reported at **2020(1) Indian Civil Cases 980 (Cal.)** and **Seuli Saha and Another vs. Sita Das and Ors.**

reported at **2023 (4) Indian Civil Cases 77 (Cal.)**, Mr. Mukherjee placed reliance upon a decision of the Hon'ble Division Bench of this Court in the case of **Binika Thapa (nee Rai) and Another vs. Damber Kumari Mukhia and Another** reported at **2023 SCC OnLine Cal 5478** and also referred to Article 141 of the Constitution of India in support of his contention that the Law declared by the Hon'ble Supreme Court shall be binding on all Courts within the territory of India.

10. Heard the learned advocates for the parties and perused the materials placed.
11. Record reveals that the summons was served upon the tenant/ petitioner herein on September 3, 2022. The tenant/petitioner herein appeared before the learned Trial Judge on November 23, 2022. The petitioner filed the applications under Section 7(1) and 7(2) of the W.B.P.T. Act 1997 on December 16, 2022. An application for condonation of delay in filing the aforesaid application was also filed in connection with the said application.
12. The issue that arises for consideration in this civil revision application is whether Section 5 of the Limitation Act, 1963 can be resorted to at the stage of filing the application under Section 7(2) of the WBPT Act 1997.
13. For the purpose of deciding the aforesaid issue it will be profitable to refer to Sections 7 and 40 of the W.B.P.T. Act, 1997 which are extracted hereinafter.

“7. When a tenant can get the benefit of protection against eviction. –

(1)(a) On a suit being instituted by the landlord for eviction on any of the grounds referred to in section 6, the tenant shall, subject to the provisions of sub-section (2) of this section, pay to the landlord or deposit with the Civil Judge all arrears of rent, calculated at the rate at which it was last paid and up to the end of the month previous to that in which the payment is made together with interest at the rate of ten per cent per annum.

(b) Such payment or deposit shall be made within one month of the service of summons on the tenant or, where he appears in the suit without the summons being served upon him, within one month of his appearance.

(c) The tenant shall thereafter continue to pay to the landlord or deposit with the Civil Judge month by month by the 15th of each succeeding month, a sum equivalent to the rent at that rate.

(2) If in any suit referred to in sub-section (1), there is any dispute as to the amount of the rent payable by the tenant, the tenant shall, within the time specified in that sub-section, deposit with the Civil Judge the amount admitted by him to be due from him together with an application for determination of the rent payable. No such deposit shall be accepted unless it is accompanied by an application for determination of the rent payable. On receipt of the application, the Civil Judge shall, having regard to the rate at which rent was last paid and the period for which default may have been made by the tenant, make, as soon as possible within a period not exceeding one year, an order specifying the amount, if any, due from the tenant and, thereupon, the tenant shall, within one month of the date of such order, pay to the landlord the amount so specified in the order.

Provided that having regard to the circumstances of the case, an extension of time may be granted by the Civil Judge only once and the period of such extension shall not exceed two months.

(3) If the tenant fails to deposit or pay any amount referred to in sub-section (1) or sub-section (2) within the time specified therein or within such extended time as may be granted, the Civil Judge shall order the defence against delivery of possession to be struck out and shall proceed with the hearing of the suit.

(4) If the tenant makes deposit or payment as required by sub-section (1) or sub-section (2), no order for delivery of possession of the premises to the landlord on the ground of default in payment of rent by the tenant, shall be made by the Civil Judge, but he may allow such cost as he may deem fit to the landlord:

Provided that the tenant shall not be entitled to any relief under this subsection if, having obtained such relief once in respect of the premises, he again Page 6 of 14 makes default in payment of rent for four months within a period of twelve months or for three successive rental periods where rent is not payable monthly.

“40. Application of the Limitation Act, 1963 to proceedings and appeals-

Subject to the provisions of this Act relating to limitation, the provisions of the Limitation Act, 1963 (36 of 1963), shall apply to proceedings and appeals under this Act.”

14. After reading Section 7 of the WBPT Act, 1997, this Court finds that on a suit being instituted by the landlord for eviction under Section 6 of the said Act, the tenant can get the benefit of protection against eviction upon compliance of the requirements under Section 7. Clause (a) of Section 7(1) comes into operation if there is no dispute as to the amount of rent payable and states that the tenant shall pay to the landlord all arrears of rent calculated at the rate at which it was last paid together with interest. Clause (b) provides the time limit within which such amount has to be paid. In terms of Clause (c), the tenant shall thereafter continue to pay to the landlord month by month by the 15th of each succeeding month a sum equivalent to the rent at that rate.
15. Subsection (2) of Section 7 comes into play where there is a dispute as to the amount of rent payable. In such a case, the tenant is obliged to deposit the amount admitted by him to be due from him together with an application for determination of the rent payable. Upon such application being made, the Civil Judge shall, having regard to the rate at which rent was last paid and the period for which the tenant may have defaulted, pass an order specifying the amount, if any due from the tenant and the tenant shall deposit the amount specified in the order within one month of the date of such order.
16. As per the proviso, an extension of time can be granted by the Civil Judge and such extension shall not exceed two months.
17. Section 7 prescribes the steps to be taken by the tenant as well as the time limit within which such compliance is to be made for the tenant to avail of the benefit of protection from eviction.
18. An issue that fell for consideration in ***Bijay Kumar Singh*** (supra) was whether the provisions of Section 7(2) are mandatory. While considering such issue, the Hon'ble Supreme Court reiterated the proposition of law laid down in ***Nasiruddin vs. Sita Ram Agarwal*** reported at **(2003) 2 SCC 577**, wherein it was held that if an act is required to be performed by a private person within a specified time, the same would ordinarily be mandatory but when a public functionary is required to perform a public

function within a time frame, the same will be held to be directory, unless the consequences thereof are provided.

19. The Hon'ble Supreme Court further observed that sub-sections (2A) and (2B) of Section 17 of the West Bengal Premises Act, 1956 confers unfettered power on the Court to extend the period of deposit of rent, which is circumscribed by the proviso to Section 7(2) and Section 7(3) of the W.B.P.T. Act, 1997. The Hon'ble Supreme Court held that the provisions of sub-section (2) are mandatory and required to be scrupulously followed by the tenant.
20. Mr. Chatterjee would contend that in view of Section 29(2) of the Limitation Act, 1963, the provisions of Section 5 of the Limitation Act can be resorted to for condonation of delay in filing an application under Section 7(2). In order to decide such contention it would be beneficial to recapitulate the provision of Section 29 (2) of the Limitation Act, 1963 for which the same is extracted hereinafter.

“29. Savings.—

(1) *****

(2) *Where any special or local law prescribes for any suit, appeal or application a period of limitation different from the period prescribed by the Schedule, the provisions of section 3 shall apply as if such period were the period prescribed by the Schedule and for the purpose of determining any period of limitation prescribed for any suit, appeal or application by any special or local law, the provisions contained in sections 4 to 24 (inclusive) shall apply only in so far as, and to the extent to which, they are not expressly excluded by such special or local law.”*

21. In **Mukri Gopalan** (supra), the Hon'ble Supreme Court after noting the provisions of Section 29(2) of the Limitation Act, 1963 laid down the conditions to be satisfied for invoking the said provision and the consequences of the application of Section 29(2).

The Hon'ble Supreme Court held thus –

“8. *****

A mere look at the aforesaid provision shows for its applicability to the facts of a given case and for importing the machinery of the provisions containing Sections 4 to 24 of the Limitation Act the following two

requirements have to be satisfied by the authority invoking the said provision

(i) There must be a provision for period of limitation under any special or local law in connection with any suit, appeal or application.

(ii) The said prescription of period of limitation under such special or local law should be different from the period prescribed by the schedule to the Limitation Act.

9. *If the aforesaid two requirements are satisfied the consequences contemplated by Section 29(2) would automatically follow. These consequences are as under:*

(i) In such a case Section 3 of the Limitation Act would apply as if the period prescribed by the special or local law was the period prescribed by the schedule.

(ii) For determining any period of limitation prescribed by such special or local law for a suit, appeal or application all the provisions containing Sections 4 to 24 (inclusive) would apply insofar as and to the extent to which they are not expressly excluded by such special or local law."

22. Mr. Chatterjee would contend that Section 7(2) of the W.B.P.T Act, 1997 satisfies the aforesaid twin conditions laid down in **Mukri Gopalan** (supra) for applicability of Section 29(2) of the Limitation Act, 1973 and, therefore, Section 5 automatically gets attracted.

23. Even if the argument of Mr. Chatterjee is accepted that there is no express exclusion for applicability of Section 5 of the Limitation Act, 1963 at the stage of filing of an application under Section 7(2) of the W.B.P.T. Act, 1997, the question would be whether the steps to be taken by the tenant as contemplated under Section 7(2) of the W.B.P.T. Act, 1997 would qualify for invoking the provisions of Section 5 of the Limitation Act.

24. The issue that fell for consideration before the Hon'ble Supreme Court in **Mukri Gopalan** (supra) was whether the appellate authority constituted under Section 18 of the relevant Rent Act has power to condone the delay in filing of appeal before it under the said section. In other words, the issue was whether delay in filing an appeal can be condoned by invoking Section 5 of the Limitation Act. The said issue was answered by the Hon'ble Supreme Court by holding that the appellate authority constituted under Section 18 of the said Act functions as a Court and

the period of Limitation prescribed therein will be computed keeping in view the provisions of Section 4 to 24 of the Limitation Act. It was further held that such proceedings will attract Section 29(2) of the Limitation Act and consequently Section 5 of the Limitation Act would also be applicable to such proceedings.

25. Mr. Chatterjee would contend that the decision in **Bijay Kumar Singh** (supra) was passed in ignorance of Section 29(2) of the Limitation Act, 1963 and the decision in **Mukri Gopalan** (supra). He, therefore, submitted that the decision in the case **Bijay Kumar Singh** (supra) should be declared as *per incuriam* by this Court.

26. The Hon'ble Supreme Court in **Dr. Shah Faesal** (supra) held that the rule of *per incuriam* has been developed as an exception to the doctrine of judicial precedent. The said rule literally means a judgment passed in ignorance of a relevant statute or any other binding authority.

27. On the context of precedential value of a judgment rendered *per incuriam*, it would be relevant to refer to the observations of the Hon'ble Supreme Court in **A.R. Antulay** (supra). In paragraph 183 of the said reports it was held thus-

“But the point is that the circumstance that a decision is reached per incuriam, merely serves to denude the decision of its precedent value. Such a decision would not be binding as a judicial precedent. A co-ordinate bench can disagree with it and decline to follow it. A larger bench can overrule such decision. When a previous decision is so overruled it does not happen-nor has the overruling bench any jurisdiction so to do-that the finality of the operative order, inter-parties, in the previous decision is overturned. In this context the word 'decision' means only the reason for the previous order and not the operative order in the previous decision, binding inter-parties. Even if a previous decision is overruled by a larger-bench, the efficacy and binding nature, of the adjudication expressed in the operative order remains undisturbed inter-parties. Even if the earlier decision of the five Judge bench is per incuriam the operative part of the order cannot be interfered within the manner now sought to be done. That apart the five Judge bench gave its reason. The reason, in our opinion, may or may not be sufficient. There is advertence to Section 7(1) of the 1952 Act and to the exclusive jurisdiction created thereunder. There is also reference to Section 407 of the Criminal Procedure Code. Can such a decision be characterised as one reached per incuriam? Indeed, Ranganath Misra, J. says this on the point: (para 105)

Overruling when made by a larger bench of an earlier decision of a smaller one is Intended to take away the precedent value of the decision without affecting the binding effect of the decision in the particular case. Antulay, therefore, is not entitled to take advantage of the matter being before a larger bench.”

- 28.** In ***Pranay Sethi*** (supra), the Hon’ble Supreme Court reiterated the proposition of law that a decision or judgment can also be *per incuriam* if it is not possible to reconcile its ratio with that of a previously pronounced judgment of co-equal or larger Bench; or if the decision of a High Court is not in consonance with the views of the Hon’ble Supreme Court. It was also clarified that the *per incuriam* rule is strictly and correctly applicable to the *ratio decidendi* and not to *obiter dicta*. The aforesaid proposition was also reiterated in James Varghese (supra).
- 29.** In ***Dr. Shah Faesal*** (supra), the Hon’ble Supreme Court also reiterated the view of five Hon’ble Judges of the Supreme Court in ***Punjab Land Development & Reclamation Corporation Ltd. vs. Labour Court*** reported at **(1990) 3 SCC 682** wherein it was held that as regards the judgments of the Supreme Court allegedly rendered in ignorance of a relevant constitutional provision or other statutory provisions on the subjects covered by them, it is true that the Supreme Court may not be said to “declare the law” on those subjects if the relevant provisions were not really present to its mind.
- 30.** This court has to now consider whether the decision in ***Bijay Kumar Singh*** (supra) was delivered in ignorance of the statutory provisions or any binding authority.
- 31.** In ***Bijay Kumar Singh*** (supra) the Hon’ble Supreme Court felt the necessity to decide the scope of Section 7 of the W.B.P.T. Act, 1997 to bring certainty. Before the Hon’ble Supreme Court, the learned Counsel for the appellant argued that the Limitation Act would be applicable to seek condonation of delay in filing an application under Section 7(2) of the said Act. The learned Counsel for the respondent argued that the Limitation Act is not applicable to seek condonation of delay in filing an application under Section 7(2) of the Act.

32. The Hon'ble Supreme Court after noting the provisions of Section 7 of the W.B.P.T. Act, 1997 held that Section 7 of the Act provides for a complete mechanism for avoiding eviction on the ground of arrears of rent, provided that the tenant takes steps as contemplated under sub-section (2) of Section 7 of the Act and deposits the arrears of rent on determination of the disputed amount. It was further held that the deposit of rent along with an application for determination of dispute is a precondition to avoid eviction on the ground of arrears of rent. In view thereof it was held that the tenant will not be able to take recourse to Section 5 of the Limitation Act as it is not an application alone which is required to be filed by the tenant but the tenant has to deposit admitted arrears of rent as well.

33. The Hon'ble Supreme Court held thus:

“21. Sub section (3) provides for consequences of non-payment of rent i.e. striking off the defence against the delivery of the possession and to proceed with the hearing of the suit. Such provision is materially different from sub sections (2A) and (2B) which was being examined by this Court in B.P. Khemka. Sub sections (2A) and (2B) of Section 17 of 1956 Act confer unfettered power on the court to extend the period of deposit of rent, which is circumscribed by the proviso of sub sections (2) and (3) of Section 7 of the Act. Therefore, the provisions of sub section (2) are mandatory and required to be scrupulously followed by the tenant, if the tenant has to avoid the eviction on account of non-payment of arrears of rent under Section 6 of the Act. There is an outer limit for extension of time to deposit of arrears of rent in terms of the proviso to sub section (2) of Section 7 of the Act. The consequences flowing from non-deposit of rent are contemplated under sub section (3) of Section 7 of the Act. Therefore, if the tenant fails to deposit admitted arrears of rent within one month of receipt of summons or within one month of appearance without summons and also fails to make an application for determination of the disputed amount of rate of rent and the period of arrears and the subsequent non-payment on determining of the arrears of rent, will entail the eviction of the tenant. Section 7 of the Act provides for a complete mechanism for avoiding eviction on the ground of arrears of rent, provided that the tenant takes steps as contemplated under sub section (2) of Section 7 of the Act and deposits the arrears of rent on determination of the disputed amount. The deposit of rent along with an application for determination of dispute is a pre-condition to avoid eviction on the ground of non-payment of arrears of rent. In view thereof, tenant will not be able to take recourse to Section 5 of the Limitation Act as it is not an application alone which is required to be filed by the tenant but the tenant has to deposit admitted arrears of rent as well.”

- 34.** Section 5 of the Limitation Act states that any appeal or any application, other than an application under any of the provision of Order XXI of the Code of Civil Procedure may be admitted after the prescribed period if appellant or the applicant satisfies the court that he had sufficient cause for not preferring the appeal or making the application within such period.
- 35.** In ***Bijay Kumar Singh*** (supra) the Hon'ble Supreme Court was of the view that the tenant will not be able to take recourse to Section 5 of the Limitation Act as it is not an application alone which is required to be filed by the tenant but the tenant has to deposit admitted arrear of rent as well.
- 36.** The fact that the relevant provision of the Limitation Act, more particularly section 29(2) were really present in the mind of the Hon'ble Judges would be evident from the fact that the Hon'ble Supreme Court considered the effect of applicability of Section 5 of the Limitation Act to WBPT Act, 1997 wherein a period of limitation has been prescribed under Section 7(2).
- 37.** The Hon'ble Supreme Court in ***Debasish Paul & Anr. vs. Amal Boral*** reported at **(2024) 2 SCC 169** after noting the provisions of Section 40 of the W.B.P.T, Act 1997 observed that though generally the Limitation Act is applicable to the provisions of the said Act in view of Section 40 of the said Act, if a lesser time period is specified as limitation in the said Act, then the provisions of the Limitation Act cannot be used to expand the same. It was held that the reasoning in *Bijay Kumar Singh* case cannot be doubted more so as the requirement for a tenant is not only to file an application but he has to deposit admitted arrears as well.
- 38.** The Hon'ble Supreme Court in ***Debasish Paul*** (supra) after considering the effect of Section 40 of the W.B.P.T. Act, 1997 specifically observed that the reasoning in ***Bijay Kumar Singh*** (supra) cannot be doubted. In view thereof, this Court is not inclined to accept the contention that the decision in ***Bijay Kumar Singh*** (supra) was delivered in ignorance of Section 40 of the W.B.P.T. Act, 1997.

39. In **Mukri Gopalan** (supra), the issue was whether the appellate authority had the power to condone the delay in filing the appeal. The issue involved in **Bijay Kumar Singh** (supra) is completely different. It is well settled that a decision is only an authority for what it actually decides and it is only the principle laid down in the judgment that is binding law under Article 141 of the Constitution of India.
40. To the mind of this court, the decision in the case of **Bijay Kumar Singh** (supra) cannot be said to be *per incuriam* the provisions of any statute or a binding authority.
41. The coordinate bench decisions in the case of **Papiya Sengupta** (supra) and **Seuli Saha** (supra) were delivered by placing reliance on **Bijay Kumar Singh** (supra). As rightly argued by Mr. Mukherjee, the principle laid down in **Bijay Kumar Singh** (supra) is binding law under Article 141 of the Constitution of India. The Hon'ble Division Bench in **Binika Thapa (nee Rai)** (supra) held that the decision in **Bijay Kumar Singh** (supra) is binding upon all courts, be it the trial Court as well the High Court.
42. The decision of the Hon'ble Bombay High Court in **Jaydeo** (supra) does not have any manner of application to the case on hand as this Court has not been confronted with any decision contrary to **Bijay Kumar Singh** (supra) on the issue involved in this Civil Revision Application.
43. In view of the aforesaid discussion, this court holds that the provision of Section 5 of the Limitation Act cannot come to the aid of the tenant for condonation of the delay in filing an application under Section 7(2) of the said Act.
44. Section 7(1) does not contemplate filing of any application. Therefore, the tenant cannot take recourse to Section 5 of the Limitation Act for condonation of delay in making deposits contemplated therein.
45. For the reasons as aforesaid, this court is not inclined to accept the contention of Mr. Chatterjee that the decision of Hon'ble Supreme Court in **Bijay Kumar Singh** (supra) was delivered in ignorance of the provisions of Section 29(2) of Limitation Act, 1963 or any binding authority.

- 46.** The learned trial judge was right in rejecting the applications under Sections 7(1) and 7(2) of the W.B.P.T. Act 1997 as the said applications were not filed within the stipulated period. This Court is, therefore, of the considered view that the impugned order does not suffer from any infirmity warranting interference under Article 227 of the Constitution of India. C.O. 3452 of 2023 stands dismissed. There shall be no order as to costs.
- 47.** Urgent photostat certified copies, if applied for, be supplied to the parties upon the compliance of all formalities.

(Hiranmay Bhattacharyya, J.)