

04.09.2024
(D/L-16)
Ct.-19
(Susanta)

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION

C.O. 3663 of 2023

Smt. Rita Das
-Vs-
Sri Pranab Kumar Jana

Mr. Krishna Das Poddar,
... For the Petitioner.
Mr. Partha Pratim Roy,
Mr. Salil Kumar Maiti,
Mr. Dyutiman Banerjee,
.... For the Opposite Parties.

The plaintiff in a suit for eviction is the petitioner of the instant revisional application under Article 227 of the Constitution of India which is directed against order No.43 dated July 20, 2023 passed by the learned Civil Judge (Senior Division) at Haldia, District: Purba Medinipur in the said suit being *Title Suit No. 116 of 2020*.

The learned Trial Judge by the order impugned has allowed an application filed by the defendant, the opposite party herein under Section 7(2) of the West Bengal Premises Tenancy Act, 1997 (hereinafter referred to as the “said Act of 1997” in short).

Mr. Poddar, learned advocate for the petitioner submits that the defendant is claiming that the rate of rent is Rs.3500/- per month though the plaintiff's claim is that such rate is Rs.5000/- per month; but even if the rate of rent is taken at Rs.3500/- per month, by virtue of Section

3 of the said Act of 1997, the tenancy of the opposite party is not protected by the said Act of 1997.

Mr. Roy, learned advocate for the defendant, the opposite party herein submits that the suit is under Section 6 of the said Act of 1997 as it is preceded by a notice under Section 6(4) thereof.

The rate of rent being more than more Rs.3000/- per month, by virtue of section 3 of the said Act of 1997, the said suit is not governed by the provisions of the said Act of 1997.

The order impugned for the aforesaid reason(s) is not sustainable and is accordingly set aside. The application under Section 7(2) of the said Act of 1997 filed by defendant is dismissed.

C.O. 3663 of 2023 is allowed 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.)