

April 2, 2024
Sl. No.A 47
Court No.19
s.biswas

CO 4181 of 2023

Dipak Dutta
vs.
Indrajit Singh

Mr. Partha Pratim Roy
Mr. Chiranjib Sinha
Mr. Dyutiman Banerjee

... for the petitioner

1. The revisional application arises out of an order dated September 6, 2023 passed by the learned Additional Civil Judge (Junior Division), 2nd Court at Alipore in Ejectment Suit No.123 of 2011.
2. Two applications under Section 7(1) and 7(2) of the West Bengal Premises Tenancy Act, 1997 were pending. During the pendency of those, the defendants raised a question with regard to the maintainability of the notice to quit and vacate and asked the learned court to decide this point as a preliminary issue. By order dated September 6, 2023, the learned court proceeded to decide the issue with regard to validity of the notice and held that the notice was not defective or invalid.
3. In my opinion, whether the last paid rent should be the one which was mentioned in the notice to quit or which was subsequently included in the plaint by way of amendment, will be decided by the learned court while deciding the application under Section 7(2) of the Act. The validity of the

notice will be decided at the trial. The learned court did not err in passing the order impugned as the court was invited by the petitioner to decide such preliminary issue.

4. The learned court also clarified that the maintainability or the validity of the notice was determined only with respect to the question raised by the defendant in the application which was disposed of and shall not be used any further.
5. Under such circumstances, the order impugned does not call for any interference. The learned court has clarified that the validity of the notice was decided for disposal of the petitioners application. The revisional application is disposed of. The learned court shall proceed independently without being influenced by the order, while disposing of the proceeding.
6. The revisional application stands disposed of accordingly.
7. All the parties are directed to act on the basis of the server copy of the order.
8. Urgent Photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Shampa Sarkar, J.)