

16.01.2025
Item No.
AD 5
Saswata

C.O. 70 of 2025

**Giriwar Kumar Agarwal
versus
Asha Bansal & Ors.**

Mr. Rachit Lakhmani
Mr. Shubham Gupta
Mr. Piyush Kumar
Mr. Rajesekhar Bal Bakshi

...For the petitioner

Mr. Meghnath Dutta
Ms. S. Chowdhury

...For the opposite parties

1. Challenging the order no. 20 dated 10th December 2024 passed by the Learned Chief Judge, City Civil Court at Calcutta in Ejectment Suit no. 21 of 2022 rejecting an application under Section 7(2) of the West Bengal Premises Tenancy Act, 1997 (hereinafter referred to as the “said Act”) without determining the arrears and/or specifying the amount which is due from the tenant/petitioner for the tenant/petitioner to make payment thereof, the instant revisional application has been filed.
2. Mr. Lakhmani, learned advocate appearing for the petitioner by drawing attention of this Court to the plaint filed in this case and the order dated 10th December 2024 would submit that in a suit under Section 6(4) of the said Act the defendant / petitioner had, in terms of Section 7(1) of the said Act duly made payment of the admitted rent and is continuing to pay the admitted amount of rent. Since, according to the petitioner there is a dispute with regard to the period for which payment was made, and the petitioner having made certain payments with the Rent Controller, an application under Section 7(2) of the said Act was filed.

3. It is submitted that the Learned Judge, while deciding an application under Section 7(2) of the said Act, is obliged to determine not only the rate of rent at which rent was last paid but also the period of the default and specify the amount that is due from the petitioner with the object of affording an opportunity to the petitioner to make payment of such amount. In this case, the same has not been done. On the contrary, the Learned Judge had simply rejected the application under Section 7(2) of the said Act, without making any such determination. According to the petitioner the impugned order cannot be sustained and prays for stay of the aforesaid order, pending hearing of the instant revisional application.
4. Having heard the learned advocate appearing for the petitioner, I am of the view that the instant revisional application should be heard. Mr. Dutta, learned advocate enters appearance on behalf of the opposite parties through his advocate on record, Ms. Swapna Chowdhury, who undertakes to file *vokalatnama* in course of this day.
5. Mr. Dutta candidly submits that in this case no determination has been made by the Learned Judge as is required under Section 7(2) of the said Act.
6. Considering the fact that the aforesaid order dated 10th December 2024 has been passed *de hors* the scheme framed under Section 7(2) of the said Act and the Learned Judge having not determined the period for which the petitioner had committed default and having not specified the amount due and payable by the petitioner for the petitioner to pay the same within the statutory period, I am of the view that the aforesaid order dated 10th December 2024 cannot be sustained and the same is accordingly set aside. The application under Section 7(2) of the said Act, is remanded back to the Learned Chief

Judge, City Civil Court, Calcutta. The Learned Judge shall decide the application filed by the petitioner under Section 7(2) of the said Act afresh and shall determine the period for which default has been committed by the petitioner and specify the amount that is due for the petitioner to be afforded with an opportunity to pay such amount in terms of and in the manner provided under Section 7(2) of the said Act.

7. With the above directions and observations, the revisional application being C.O. 70 of 2025 is accordingly disposed of.
8. The parties shall be at liberty to raise all points before the Learned Judge and the application shall be decided afresh.
9. All parties shall act on the basis of the server copy of this order duly downloaded from this Court's official website.

(Raja Basu Chowdhury, J.)