

Court No. 6
(265719)

03.03.2025
(A 23)
(S. Banerjee)

CO 360 of 2025

Ashoke Kumar Barick
Vs.
Sumana Sana & Ors.

Mr. Shashwat Nayak

...for the petitioner
(appearing via virtual mode)

This application under Article 227 of the Constitution of India is at the instance of the defendant and is directed against an order, being no. 7 dated November 6, 2024 passed by the learned Civil Judge (Jr. Division), 1st Court at Hooghly Sadar in Title Suit No. 273 of 2018. By the order impugned the application under Section 7(2) of the West Bengal Premises Tenancy Act, 1997 stood rejected.

The opposite parties herein filed a suit under Section 6 of the West Bengal Premises Tenancy Act alleging that the petitioner herein did not pay the monthly rent from February, 2018. In the plaint it has been stated that the rate of monthly rent is Rs. 3,200/-.

The petitioner filed an application under Section 7(2) of the said Act praying for an order determining the actual outstanding rent and after such

determination the defendant be allowed to pay the arrear rent.

Section 7(2) of the West Bengal Premises Tenancy Act states that 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.

It appears that the tenant-defendant has not deposited the admitted arrears but has filed the application under Section 7(2) of the 1997 Act praying for determination of the actual outstanding and after

such determination, to allow the defendant/the petitioner herein to pay the arrear rent.

The question of adjudication of the said dispute does not arise when the admitted arrears have not been paid.

This Court is, therefore, of the view that the learned trial Judge was right in rejecting the application under Section 7(2) of the 1997 Act.

CO 360 of 2025 accordingly stands dismissed without, however, any order as to costs.

Learned advocate for the petitioner submits that the learned trial Judge has observed that there is no landlord-tenant relationship between the parties.

It is made clear that all findings rendered by the learned trial Judge in the order impugned, are tentative findings and the learned trial Judge shall decide the suit without being influenced by such tentative findings.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of requisite formalities.

(Hiranmay Bhattacharyya, J.)