

Sl.74  
11.03.2025  
Court No.6  
BP

C.O. 470 of 2025

Swapan D. Roy  
-versus-  
Teresa Gomes & Anr.

Mr. Mihir Kumar Das  
Mr. Swadhin Pan  
... for the petitioner

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.17 dated 8<sup>th</sup> January, 2025 passed by the learned Judge-in-Charge, 2<sup>nd</sup> Bench, Presidency Small Causes Court at Calcutta in Ejectment Suit No.345 of 2022.

By the order impugned the application under Section 7(2) of the West Bengal Premises Tenancy Act, 1997 was disposed of by directing the petitioner herein to make the payment of total arrears within one month from the date of passing of the said order.

The learned advocate appearing for the petitioner submits that the suit for eviction was filed only on the ground of reasonable requirement and the default was not taken as the ground in the said suit. He further submits that the petitioner is not a defaulter in payment of rent and he used to pay rent to the landlord/ opposite party herein and in view of the good

relationship between the parties at the relevant point of time the petitioner did not insist for issuance of any rent receipt as an acknowledgement for payment of such rent.

Section 7 of the West Bengal Premises Tenancy Act lays down the conditions which are to be satisfied by the tenant to get benefit of protection against eviction. Section 7(1)(a) of the West Bengal Premises Tenancy Act, 1997 states that 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 provision of sub-section (2) of the said 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 @ 10% per annum. A bare reading of Section 7(1)(a) of 1997 Act implies that the tenant defendant in order to get benefit of protection against eviction in a suit being instituted by the landlord for eviction on any one of the grounds referred to in Section 6, has to comply with the provisions laid down under Section 7 of the 1997 Act. Even if the suit has not been instituted on the ground of default, the tenant defendant is required to comply with the provisions under Section 7 of the 1997 Act.

The objection of the petitioner is that the landlord refused to grant any rent receipt in spite of the fact that the tenant has paid rent month by month within the stipulated time limit to the landlord/opposite party herein.

With regard to such objection it would be relevant to take note of the provisions of Section 32 of the West Bengal Premises Tenancy Act, 1997 which provides for penalty for refusal by landlord to grant receipt for rent paid. Section 32 states that if the landlord refuses to deliver to the tenant a receipt for any rent paid by the tenant, the Controller shall, on application made in this behalf by the tenant within two months from the date of payment and after hearing the landlord, by order, direct the landlord to pay to the tenant, by way of damages, such sum, not exceeding three times the amount of rent paid by the tenant, as the Controller may determine, and the cost of application and shall issue a certificate to the tenant in respect of the rent paid. When it is the case of the petitioner herein that he has paid rent but the landlord refused to grant any receipt for the rent paid, the petitioner was under an obligation to take the recourses provided under Section 32 of the 1997 Act.

The learned advocate appearing for the petitioner, in his usual fairness, submits that such

steps have not been taken by the petitioner in the case on hand.

In view thereof, this Court is not inclined to accept the submission of the learned advocate for the petitioner that the tenant/petitioner paid rent to the landlord but the landlord refused to grant any receipt for such rent paid.

The learned trial judge after taking into consideration the materials on record arrived at a finding that the petitioner is the defaulter in payment of rent for total 23 months and was directed to make the payment of the total arrear within one month from the date of passing the said order. The said order does not suffer from any infirmity warranting interference under Article 227 of the Constitution of India. In view thereof, this Court is not inclined to interfere with the order impugned.

However, considering the fact that the petitioner has challenged the order dated 8<sup>th</sup> January, 2025 by filing this application under Article 227 of the Constitution of India and such application was pending before this Court till today (11.03.2025), this Court is of the considered view that the time granted by the impugned order to deposit the same is to be extended. In view thereof, the time to deposit the total arrear rent as directed by the impugned order is extended by one

month from the date of receipt of a server copy of this order.

The impugned order stands modified only to the extent as indicated hereinbefore.

With the above observations and directions, C.O. 470 of 2025 stands disposed of.

No order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

**(Hiranmay Bhattacharyya, J.)**