

10.01.2025
(D/L-7)
Ct.-236
(Nandita)

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION

C.O. 456 of 2023

With

CAN 1 of 2024

Sri Ajoy Kumar Boral & Anr.

-Vs-

Sri Swarup Sen

Mr. Sibasish Ghosh,
Mr. Dwarika Nath Mukherjee,
Mr. Manik Lal De,
Mr. Durlav De.

... For the Petitioners.

Mr. Shounak Mukhopadhyay,
Mr. Sanjib Dawn

...For the Opposite Party

Learned Advocates for the petitioner and learned advocate for the opposite party are present. Heard the learned advocates for the parties.

This application under Article 227 of the Constitution of India is directed against order dated 17.12.2022 passed by Learned Civil Judge (Senior Division) 3rd Court, Barasat, North 24-Parganas in rejecting the petition of the petitioner-defendant filed under Order 7 Rule 11 of Code of Civil Procedure. The petitioner being aggrieved by the order passed by the learned Trial Judge has come up with the instant application.

Upon perusing the order passed by the learned Trial Judge and considering the provisions contained under Order 7 Rule 11 of the Code of Civil Procedure this court is of the view that as it is well-settled that court while disposing of the application under Order 7 Rule 11 of Code of Civil Procedure has to confine itself with the pleadings of the plaint and cannot traverse itself to any pleadings of the written statement nothing wrong appears in the order passed by the learned Trial Court. Thus no relief can be granted in this application under Article 227 of the Constitution of India.

However, the learned advocate for the petitioner submits that as an application under Section 7(2) of the West Bengal Premises Tenancy Act is pending for disposal before the learned Trial Court along with petition under Section 5 of the Limitation Act, the learned court may be requested to dispose of the said application expeditiously on the date fixed. Learned advocate further submits that the written statement filed before the learned trial court be accepted. Upon hearing the learned advocate this court makes it clear that it has not entered into the merit of the case and it will be left open to be agitated by both the parties in an application under Section 7(2) of the West Bengal Premises Tenancy Act, which is pending before the

learned trial court. As written statement is already filed the same to be considered and accepted in accordance with law. Necessary prayer may be made before the learned Trial Court for acceptance and which may be considered in accordance with law.

This revisional application stands disposed of. Learned Trial Judge is requested to expedite the hearing of the suit.

(Biswaroop Chowdhury, J.)