

Court No. 6
(265719)

18.03.2025
(A 116)
(S. Banerjee)

CO 565 of 2025

Tushar Kanti Sarkar
Vs.
Subrata Pal

Mr. Arghya Kamal Das

...for the petitioner

When this matter is taken up for hearing, the learned advocate for the petitioner again prays for an accommodation.

Such prayer is refused and the application is taken up for hearing.

This application under Article 227 of the Constitution of India is at the instance of the defendant and is directed against a judgment and order dated October 4, 2024 passed by the learned Civil Judge (Jr. Division) 1st Court, Hooghly Sadar in Title Suit No. 434 of 2016. By the order impugned the application under Section 7(3) of the West Bengal Premises Tenancy Act, 1997, stood allowed thereby striking out the defence of the defendant/petitioner herein with respect to delivery of possession.

The opposite party herein filed the suit for eviction on September 26, 2016 under the provisions

of Section 6 of the 1997 Act. The defendant/petitioner herein entered appearance in the said suit on December 20, 2016. Thereafter a written statement was filed on March 21, 2017.

Record reveals that the defendant/petitioner filed a proceeding before the Rent Controller being HRC Case No. 1 of 2009 and the said case was dropped by the Rent Controller by an order dated February 18, 2013. It has been specifically recorded by the learned trial Judge that the defendant could not produce any document before the learned trial Judge to show that the defendant continued to deposit rent with the Rent Controller.

It was further recorded that the defendant could not produce any document to show that he continued to deposit rent in accordance with law.

Section 7(1) 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 provisions of sub-section (2) of this 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 upto the end of the month previous to that in which the payment is made together with interest at the rate of ten per cent per annum.*

Section 7(1)(c) of the 1997 Act states that *the tenant shall thereafter continue to pay to the landlord or deposit with the Civil Judge month by month by the 15th of each succeeding month, a sum equivalent to the rent at that rate.*

Section 7(2) of the 1997 Act states that *if 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.*

Section 7(3) of the 1997 Act states that *if the tenant fails to deposit or pay any amount referred to in sub-section (1) or sub-section (2) within the time*

specified therein or within such extended time as may be granted, the Civil Judge shall order the defence against delivery of possession to be struck out and shall proceed with the hearing of the suit.

No material has been produced before this Court to controvert the factual finding recorded by the learned trial Judge to show that the petitioner complied with the requirements of Section 7(1) or 7(2) of the 1997 Act.

For such reasons, this Court is of the considered view that the learned trial Judge was right in allowing the application under Section 7(3) of the 1997 Act.

For the reasons as aforesaid, this Court is not inclined to interfere with the order impugned.

CO 565 of 2025 is accordingly dismissed without, however, any order as to costs.

(Hiranmay Bhattacharyya, J.)