

Court No. 6
(265719)

25.02.2025
(AD 17)
(S. Banerjee)

CO 645 of 2025

Smt. Shibani Mitra
Vs.
Smt. Kalyani Das & Anr.

Mr. Sahid Uddin Ahmed
Mr. Riaz Abedin

...for the petitioner

This application under 227 of the Constitution of India is at the instance of the defendant and is directed against an order dated August 30, 2024, passed by the learned Civil Judge (Jr. Division), 1st Court at Alipore in Ejectment Suit No. 31 of 2014. By the order impugned, the application under Section 5 of the Limitation Act praying for condonation of delay in preferring the application under Section 7(2) of the West Bengal Premises Tenancy Act stood rejected.

It is not in dispute that the application under Section 7(2) of the West Bengal Premises Tenancy Act was not filed within the prescribed period as mentioned in Section 7(2) of the said Act of 1997.

It is well settled that an application under Section 5 of the Limitation Act to condone the delay in filing an application under Section 7(2) of the Act, is not maintainable. To the mind of this Court, the

learned trial Judge was right in rejecting the application under Section 5 of the Limitation Act.

Petitioner places reliance upon a decision of a coordinate bench in the case of *Jiten Joyder –Vs.- Urmila Jaiswal*, reported in 2018(2) ICC 31 (Cal.).

The said decision cannot come to the aid of the petitioner as in the said reported case, no application under Section 7(2) of the West Bengal Premises Tenancy Act was filed where as in the present case an application under Section 7(2) of the West Bengal Premises Tenancy Act was filed after the prescribed period of limitation.

This Court, therefore, is not inclined to interfere with the order impugned.

CO 645 of 2025 is dismissed without, however, any order as to costs.

(Hiranmay Bhattacharyya, J.)