

Court No. 6
(265719)

26.02.2025
(AD 16)
(S. Banerjee)

CO 648 of 2025

Baby Gomes
Vs.
Bulbul Mullick & Ors.

Ms. Priyanka Saha

...AoR of the petitioner

This application under Article 227 of the Constitution of India is at the instance of the defendants and is directed against an order, being no. 12 dated January 21, 2025 passed by the learned 4th Bench, Presidency Small Causes Court at Calcutta in Ejectment Suit NO. 345 of 2023. By the order impugned the application under Section 7(4) of the West Bengal Premises Tenancy Act, 1997, filed by the defendants, stood rejected.

Section 7(4) of the West Bengal Premises Tenancy Act, 1997 states that if the tenant makes deposit or payment as required by sub-Section (1) or sub-Section (2), no order for delivery of possession of premises to the landlord on the ground of default in payment of rent by the tenant, shall be made by the civil Judge but he should allow such cost as he may deem fit, to landlord.

The expression “no order for delivery of possession” goes to show that the said relief can be granted to the tenant at the time of passing the final judgement in the suit only if the tenant makes deposit or payment as required by sub-Section (1) or sub-Section (2) of the 1997 Act. Section 7(1) of the said Act obliges a tenant to pay the current rent to the landlord during the pendency of the suit.

In view thereof, this Court is of the considered view that a relief under Section 7(4) of the 1997 Act cannot be granted at any stage prior to the passing of the final order in the suit.

In view thereof, this Court is of the considered view that the ultimate conclusion of the learned trial Judge does not suffer from any infirmity.

For such reason, this Court is not inclined to interfere with the order impugned in the application. CO 648 of 2025, accordingly, stands dismissed.

There shall be no order as to costs.

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

(Hiranmay Bhattacharyya, J.)