

A.1030
05.08.2025
Court No.6
BP

C.O. 699 of 2025

Sri Jay Prakash Gupta
Vs.
Smt. Ratna Devi & Ors.

Mr. Anshunath Chakraborty
Mr. G. Mukhopadhyay
..for the petitioner

Mr. Arindam Sadhukhan
Mrs. Fatima Hassan
..for the opposite parties

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.24 dated 4th January, 2025 passed by the learned Judge, 2nd Bench Presidency Small Causes Court, Calcutta in Ejectment Suit No. 149 of 2022.

By the order impugned the application under Section 7(1) of the West Bengal Premises Tenancy Act, 1997 stood rejected.

The learned advocate appearing for the petitioner submits that the summons of the suit was not served upon the petitioner. The petitioner came to know from one of the tenants of the suit building that an eviction suit might have been filed against the petitioner in respect of the tenanted shop room and immediately thereafter contacted the learned advocate and after obtaining the information slip on 15th March, 2024 came to know that the Ejectment Suit No. 149 of 2022 has

been filed and the same is fixed for hearing on 18th March, 2024. He further submits that immediately thereafter on 18th March, 2024 the petitioner entered appearance in the said suit and filed an application for vacating the order of ex parte hearing and for permitting the petitioner to file the written statement. He submits that the petitioner filed the application under Section 7(1) and Section 7(2) of the 1997 Act on 9th April, 2024 i.e. within a month from the date of appearance and in view of the provisions laid down under Section 7(1) of the 1997 Act, the learned trial judge ought to have considered the said application and permitted the petitioner to deposit the arrears of rent.

The learned advocate appearing for the opposite party submits that the petitioner intentionally avoided service of summons for which steps had to be taken for substituted service under the provisions of Order 5 Rule 20 of the Code of Civil Procedure. Paper publication was made and after a long time thereafter the petitioner entered appearance in the said suit. She further submits that the petitioner also did not deposit the arrear rent within the time limit stipulated under Section 7(1) of the 1997 Act.

In course of hearing of the civil revisional application the learned advocate appearing for the petitioner produces a bunch of orders starting from order no.1 to order no.16 passed in Ejectment Suit No. 149 of

2022. It appears from the order dated 13th September, 2023 that the draft notice for newspaper publication was checked and verified and it was found to be correct and the office was directed to hand over the draft copy of the notice to the learned advocate for the plaintiff for paper publication and the department was directed to issue summons in terms of the order dated July 31, 2023 and October 18, 2023 was fixed for filing the copy of the newspaper and for awaiting the bailiff report. The learned trial judge perused the report of the bailiff dated 25th September, 2023 wherefrom it appears that the bailiff has affixed the notice of the suit on the outer door of the defendant's room. The learned trial judge perused the copy of the newspaper publication and recorded its prima facie satisfaction that the same was made in terms of the order dated 12th May, 2022 as well as with the approved draft of publication. The learned trial judge further recorded that till 1.30 p.m. on 18th October, 2023 neither the defendant nor anybody on his behalf appeared. In order to afford another opportunity to the defendant to appear and contest the suit the learned trial judge fixed December 20, 2023 for appearance of the defendant and in default necessary orders shall be passed. On 20th December, 2023 no steps were taken by the defendants. The learned trial judge thereafter fixed the suit on the ex parte board and a date was fixed for appearance before the transferee court on 2nd February,

2024. By an order dated 2nd February, 2024 the learned trial judge fixed 18th March, 2024 for ex parte hearing. On 18th March, 2024 the learned advocate for the petitioner appeared in the suit and filed an application praying for vacating the ex parte hearing. Such prayer was allowed subject to payment of cost of Rs. 3,000/- by the defendant to the plaintiff and 29th April, 2024 was fixed for filing of the written statement and for payment of cost. Thereafter the petitioner filed the applications under Section 7(1) of the West Bengal Premises Tenancy Act and Section 7(2) of the West Bengal Premises Tenancy Act. In the application under Section 7(1) of the West Bengal Premises Tenancy Act the petitioner has stated that the plaintiff had stopped to receive the payment of rent since December, 2011. However the admitted arrears of rent was not deposited by the petitioner on 9th April, 2024 i.e. at the time of filing the application under Section 7(1) and Section 7 (2) of the 1997 Act. It is well settled that Section 7(1) of the West Bengal Premises Tenancy Act does not contemplate filing of an application and the tenant is obliged to 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. It is not in dispute that the admitted arrears of rent was not deposited even within one month from the

date of appearance in the said suit. The learned trial judge noted that summons was served on 25th September, 2023 but the application under Section 7(1) of the 1997 Act was filed only on 9th April, 2024.

In view of the reasons as aforesaid this Court is of the considered view that the petitioner did not comply with the provisions laid down under Section 7 of the West Bengal Premises Tenancy Act. The learned trial judge was right in rejecting the application under Section 7(1) of the West Bengal Premises Tenancy Act, 1997.

Accordingly, C.O. 699 of 2025 stands dismissed.

There shall be, however, 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.)