

Item No.38
17.03.2025
Court. No. 6
GB

C.O. 860 of 2025

Dr. Manash Kumar Talukdar
Vs.
Shri Gobinda Chandra Saha

*Mr. Kishore Mukherjee,
Mr. Soumyajit Mukherjee,
Mr. Ahitagni Dey,
Mrs. Dipanwita Gupta*

...for the Petitioner.

1. This application under Article 227 of the Constitution of India is at the instance of the defendant and is directed against an order dated December 4, 2024 passed by the learned Civil Judge (Junior Division), 2nd Court at Barrackpore, 24 Parganas (North) in Ejectment Suit No.79 of 2015.
2. By the order impugned, the application under Section 5 of the Limitation Act filed in connection with Section 7(2) of the West Bengal Premises Tenancy Act, 1997 (hereinafter referred to as the 'said Act of 1997') was rejected.
3. The learned advocate appearing for the petitioner submits that the petitioner is not a defaulter in payment of rent. There was some delay in filing the application under Section 7(2) of the said Act of 1997 and the petitioner prays for condonation of the delay in filing of the application under Section 7(2) of the said Act on 1997.
4. Record reveals that the petitioner entered appearance in the suit on February 23, 2016 but filed the

application under Section 7(2) of the said Act of 1997 only on July 2, 2018 along with an application under Section 5 of the Limitation Act. It is now well-settled that an application under Section 5 of the Limitation Act is not maintainable to condone the delay in filing an application under Section 7(2) of the said Act of 1997.

5. The learned trial judge took note of the decision of the decision of the Hon'ble Supreme Court in the case of ***Bijay Kumar Singh & Ors. versus Amit Kumar Chamariya & Anr.*** reported in **(2019) 10 SCC 660**. It appears that there was a delay of about 1273 days in filing the application. However, considering the fact that the application under Section 5 of the Limitation Act is not maintainable, this Court is not inclined to interfere with the order impugned.
6. Accordingly, C.O. No.860 of 2025 is disposed of.
7. However, there will be no order as to costs.
8. Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Hiranmay Bhattacharyya, J.)