

Sl.16
12.03.2025
Court No.6
BP

C.O. 880 of 2025

Suniti Nag & Ors.
-versus-
Sipra Roy & Anr.

Mr. Manik Lal Poddar
... for the petitioner

Mr. Purbngshu Chandra Mitra
Ms. Piyali Mitra
Ms. Mahasweta Mukherjee
Ms. Indira Malik
..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. 75 dated January 09, 2025 passed by the learned Judge, 5th Bench, Presidency Small Cause Court at Calcutta in Ejectment Suit No. 164 of 2017.

By the order impugned the application under Section 151 of the Code of Civil Procedure filed by the petitioners herein praying for condonation of delay in depositing the rent for the month of Magh 1429 B.S. stood rejected.

Learned advocate appearing for the petitioners submits that the petitioners have complied with the order passed under Section 7(2) of the West Bengal Premises Tenancy Act, 1997. Thereafter, the petitioners were

depositing the current rent month by month but there is only a default in payment of rent for the month of Magh 1429 B.S and for condonation of such delay the application under Section 151 of the Code of Civil Procedure was filed.

Learned advocate appearing for the opposite parties submits that the provisions of Section 151 of the Code of Civil Procedure could not have been invoked for condonation of delay in depositing the current rent.

Section 7 (1) (c) of the West Bengal Premises Tenancy Act, 1997 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 (1) (c) of the 1997 Act does not contemplate filing of any application. It is well settled that the delay in depositing current rent in terms of Section 7 (1) (c) cannot be condoned. The learned trial judge took note of the decisions of the Hon'ble Supreme Court on such issue and by a reasoned order rejected the application under Section 151 of the Code of Civil Procedure. Since admittedly the rent for the month of Magh 1429 B.S. was not paid, the learned trial judge was right in allowing the petition under Section 7(3) of the 1997 Act.

For such reason, this Court is not inclined to interfere with the order impugned.

Accordingly, C.O. 880 of 2025 stands dismissed.

However, there shall be 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.)