

Court No. 6
(265719)

12.03.2025
(AD 19)
(S. Banerjee)

CO 884 of 2025

Pankaj Saraf
Vs.
Suhita Bhattacharjee

Ms. Jayanti Ghoshal

...for the petitioner

This application is at the instance of the defendant and is directed against an order being no. 53 dated July 31, 2024 passed by the learned Civil Judge (Jr. Division), 2nd Court at Alipore in Ejectment Suit No. 7 of 2017.

Learned advocate appearing for the petitioner, in her usual fairness, submits that the learned advocate for the Caveator has not been served with a copy of this application under Article 227 of the Constitution of India.

However, this Court invited the learned advocate appearing for the petitioner to make her submissions on the question of issuance of any interim order.

Learned advocate for the petitioner submits that by the order impugned the application under Section 5 of the Limitation Act filed in connection with the

application under Sections 7(1) and 7(2) of the West Bengal Premises Tenancy Act, 1997.

Record reveals that the petitioner appeared in the suit on February 13, 2017.

The summons of the suit were served on February 10, 2017 and the application under Section 7(1) and 7(2) of the 1997 Act were filed on March 30, 2017, i.e., beyond the period prescribed under the statute.

It is well settled that an application under Section 5 of the Limitation Act is not maintainable for condonation of delay in filing applications under Sections 7(1) and 7(2) of the 1997 Act.

The learned trial Judge took note of the decisions of the Hon'ble Supreme Court in the case of *Bijay Kumar Singh v. Amit Kumar Chamariya*, reported in (2019) 10 SCC 660 and *Nasiruddin & Ors. v. Sita Ram Agarwal*, reported in (2003) 2 SCC 577 and rightly held that the petition under Section 7(2) of the West Bengal Premises Tenancy Act was time barred. The learned trial Judge, in the considered view of this Court, was right in rejecting the application under Section 7(2) of the said Act. Consequently, the defence of the petitioner against

delivery of possession was struck off under Section 7(3) of the 1997 Act.

The order impugned does not suffer from any infirmity warranting interference under Article 227 of the Constitution of India.

Accordingly, CO 884 of 2025 stands dismissed.

There shall, however, be no order as to costs.

(Hiranmay Bhattacharyya, J.)