

**Item 14.02.
No. 2025
03**

**Ct
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IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE

CO 1131 of 2023

**Kapur Chand Garg & Anr.
Vs
Bharati Patel**

Mr. Ajoy Kumar Singh.

... for the petitioner.

Mr. Krishna Das Poddar,
Mr. Surajit Maity,
Ms. Robina Akhtar,
Ms. Mandira Barman. For the opposite party.

1. This revisional application has been filed assailing the order dated 3rd February, 2023 passed in connection with Ejectment Suit No. 461 of 2009, wherein the Learned Judge, 2nd Bench, Presidency Small Causes Court, Calcutta recorded an order closing the evidence of a proceeding pending under Section 7(2) of the West Bengal Premises Tenancy Act.
2. In the order, Learned Judge recorded that one witness i.e. A.P.W-1/opposite party herein filed one affidavit-in-chief and he was examined in-chief on 04.05.2018, but he was not produced for cross-examination and accordingly Learned Judge reminded himself of the settled position of law that

if a witness is not produced for cross-examination, the evidence of that witness cannot be taken into account.

3. Considering all facts and circumstances, Learned Judge closed the evidence in the proceeding under Section 7(2) of the West Bengal Premises Tenancy Act as no evidence was adduced on behalf of the plaintiff and argument was fixed on 8th February, 2023.
4. Learned counsel appearing on behalf of the petitioners has tried to make this Court understand that A.P.W-1 was previously examined and cross-examined but entire evidence has to be expunged as the witness was not produced for cross-examination after 04.05.2018. The issue of expunging the evidence of A.P.W-1 has not been considered by the Learned Trial Judge in the order impugned. Therefore, the Court found hardly any necessity to go into that issue.
5. However, I do not find any infirmity or illegality in the order impugned in this revisional application.
6. Plaintiffs/petitioners herein are at liberty to file necessary application with respect of submission advanced before this Court.
7. In the premises set forth above, the revisional application stands dismissed.
8. Urgent photostat certified copy of the order, if

applied for, be given to the parties on usual undertakings.

9. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Bibhas Ranjan De, J.)