

01-05-2025
Item no.22
Subrata
Bhattacharyya
AR(C)

IN THE HIGH COURT AT CALCUTTA
Civil Revisional Jurisdiction

CO No.1525 of 2025
Mrs. Nasimara Begum & Ors.
-vs-
Mrs. Shakil Ara Begum & Ors.

Mr. Debductta Basu ...for the petitioners

Mr. Arijit Bardhan
Mr. Soumyajit Mishra
Mr. Gourab Mondal ...for the opposite parties

This application under Article 227 of the Constitution of India is at the instance of the defendants and is directed against an order dated February 12, 2025 passed by the learned Civil Judge (Junior Division), 1st Court at Alipore in Ejectment Suit No.304 of 2018.

By the order impugned, an application under section 7(2) of the West Bengal Premises Tenancy Act, 1997 filed by the petitioners stood rejected and consequently the defence of the petitioners against delivery of possession was struck out under section 7(3) of the 1997 Act.

Mr Basu, learned advocate for the petitioners, submits that the petitioners sent the rent for the months of February 2015 to April 2015 to the landlord, the opposite party herein, by money order and that the landlord refused to accept the same. He, therefore, submits that the petitioners may be permitted to deposit such amount and the order directing striking out the defence of the petitioners against delivery of possession be recalled.

Mr Bardhan, learned counsel for the opposite

parties, vehemently opposes the prayer of Mr Basu. He submits that the petitioners did not deposit the admitted rent along with the application filed under section 7(2) of the 1997 Act and for such reasons the order impugned does not warrant interference by this court in exercise of power under Article 227 of the Constitution.

Heard learned advocates for both the parties and perused the materials on record.

The opposite parties have filed a suit for eviction on various grounds available under section 6(1) of the 1997 Act. The petitioners filed an application under section 7(2) of the 1997 Act within the stipulated time limit. It is not in dispute that the petitioners did not deposit the admitted arrears of rent for the period from February 2015 to April 2015 together with the application under section 7(2) of the 1997 Act.

It is the specific case of the petitioners that the rent was remitted by the petitioners to the opposite party through money order for the month of February 2015 to April 2015. No document has been produced either before the learned trial judge or before this court at the time of hearing of the Article 227 application to show that after refusal by the landlord to accept the rent, the same was deposited before the rent controller. Thus, it is evident that the rent for the period of February 2015 to April 2015 is admitted arrears of rent, but the petitioners did not deposit it together with the application under section 7(2) of the 1997 Act.

It is now well settled that the petitioners were required to deposit the admitted arrears along with such application; and on failure to do so, the learned Civil Judge was right in not adjudicating the application under section

7(2) of the 1997 Act on its merits.

Since there has been non-compliance on the part of the petitioners for not depositing the rent for the months of February 2025 to April 2015, the learned trial judge was right in striking out the defence of the petitioners against delivery of possession in exercise power under section 7(3) of the 1997 Act.

For such reasons, this court is not inclined to interfere with the impugned order.

Accordingly, CO No.1525 of 2025 stands dismissed without any order as to costs.

All parties are to act on the server copy of this order duly downloaded from the official website of this court.

Certified copy of this order, if applied for, shall be made available to the parties.

[Hiranmay Bhattacharyya, J]

