

D/L
Item No. 132
10.09.2025
KOLE
265719

CO 1633 of 2025

Smt. Ava Chowdhury
-Vs.-
Ranjana Pramanik

Mr. Ashik Hossain,

...for the petitioner.

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. 48 dated January 6, 2025 passed by the Learned Judge, 5th Court, Presidency Small Causes Court at Calcutta in Ejectment Suit No. 402 of 2017. By the impugned order the application under Section 151 of the Code of Civil Procedure praying for condonation of delay in depositing rents for the months of January and February, 2024 stood rejected and the application under Section 7(3) of the West Bengal Premises Tenancy Act stood allowed. It is not in dispute that the rents for the months of January and February 2024 could not be deposited within the stipulated time limit.

Learned Advocate for the petitioner would contend that the rents for the aforesaid months could not be deposited due to illness of the learned Advocate for the petitioner. He, therefore, submits that such delay in deposit of rents ought to have been condoned by the learned Trial Judge.

It is now well settled that the provisions of Section 5 of the Limitation Act does not apply to the deposits to be made under Section 7(1)(c) of the 1997 Act. It is equally well settled that the time for making such deposit cannot also be extended

in exercise of powers under Section 151 of the Code of Civil Procedure.

The learned Trial Judge rightly took note of the decision of the Hon'ble Apex Court on the said issue and rejected the prayer for condonation of delay in depositing the rents for the months of January and February, 2024.

Since admittedly the rents for the months of January and February, 2024 could not be deposited within the stipulated time limit, the learned Trial Judge was right in striking out the defence of the petitioner against delivery of possession by invoking the provisions of Section 7(3) of the 1997 Act.

The learned Trial Judge assigned cogent reasons for rejecting the application under Section 151 of the Code of Civil Procedure and for allowing the application under Section 7 (3) of the 1997 Act.

This court finds no reason to interfere with the order impugned in question.

CO No. 1633 of 2025 stands dismissed, however, without any order as to costs.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Hiranmay Bhattacharyya, J.)