

Sl.6
17.06.2025
Court No.6
BP

C.O. 1876 of 2025

Sri Vijoy Arora & Anr.
-versus-
Smt. Anjani Seth & Ors.

Mr. Abhijit Ray
Mr. Santu Nandy
Mr. Md. Ayaan
... for the petitioners

Mr. Sayantan Bose
..for the opposite party
Nos. 1,4 and 5.

Affidavit of service filed in Court today is taken on record.

This application under Article 227 of the Constitution of India is at the instance of the defendants and is directed against an order being no. 17 dated 24th March, 2025 passed by the Learned Judge, 6th Bench, Presidency Small Causes Court at Calcutta in Ejectment Suit No. 234 of 2023.

By virtue of the impugned order the prayer for amendment of the application under Section 7(2) of the West Bengal Premises Tenancy Act, 1997 stood rejected.

The learned advocate appearing for the petitioners submits that the petitioners have sought to incorporate the fact that they were inducted into the suit property by virtue of a deed of lease and has sought to challenge the landlord tenant relationship between the parties.

The learned advocate appearing for the opposite parties raises an objection as to the prayer for amendment of the application under Section 7(2) of the 1997 Act. He submits that when the application under Section 7(2) of the West Bengal Premises Tenancy Act was filed the tenant did not challenge the landlord tenant relationship between the parties. The tenant is trying to delay the hearing of the application under Section 7(2) of the West Bengal Premises Tenancy Act by filing a frivolous application for amendment.

Heard the learned advocates for the parties and perused the materials placed.

After going through the application under Section 7(2) of the West Bengal Premises Tenancy Act, 1997 this Court finds that it has been specifically stated in the said application that the defendants are in occupation of the tenanted portion since April, 2004 by virtue of a deed of lease dated 18th April, 2004. After going through the proposed amendment this Court finds that the defendants/petitioners herein have sought to elaborate the case which has already been made in the application under Section 7(2) of the West Bengal Premises Tenancy Act. The instant suit is a suit for eviction on the ground available under Section 6 of the West Bengal Premises Tenancy Act. The existence of landlord tenant relationship is the foundation of such a suit. It is not in dispute that the landlord/opposite party herein is

claiming to be the transferee landlord. The petitioners have sought to challenge the existence of landlord tenant relationship between the parties which goes to the root of the obligation to pay rent.

For such reasons this Court is of the considered view that the proposed amendments are necessary for the purpose of adjudication of an application under Section 7(2) of the 1997 Act.

For all the reasons as aforesaid, this Court is of the considered view that the impugned order is liable to be set aside and the same is accordingly set aside. The application for amendment stands allowed. The defendants/petitioners herein are directed to serve a copy of the amended application under Section 7(2) of the West Bengal Premises Tenancy Act within a week from the receipt of the server copy of this order.

The Learned Judge, 6th Bench, Presidency Small Causes Court at Calcutta is requested to take up the hearing of the application under Section 7(2) of the 1997 Act on the next date fixed and to make an endeavour to see that the same is disposed of as expeditiously as possible without granting any unnecessary adjournments to either of the parties.

With the above observations and directions, C.O. 1876 of 2025 stands disposed of.

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.)