

D/L- 10
17/06/2025
Ct. No.-6
Aritra

C.O. 1995 of 2025

**Basant Kumar Gupta @ B.K. Gupta
Vs.
Israth Begum & Ors.**

Mr. Debjit Mukherjee
Mr. Kaustav Bhattacharya
Ms. Priyanka Jana

...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.6 dated April 21, 2025 passed by the learned Civil Judge (Jr. Div.), 3rd Court at Alipore in Ejectment Suit No.197 of 2023.

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

Mr. Mukherjee, learned advocate appearing for the petitioner submits that after service of summons the petitioner entered appearance in the suit and filed the applications under Section 7(1) and 7(2) of the 1997 Act on September 19, 2024. He submits that the summons was served on September 10, 2024. He further submits that the admitted arrears of rent was deposited on October 1, 2024 but, however, the statutory interest was deposited only on April 21, 2025. He further submits that the petitioner is entitled to an extension of time for depositing the statutory interest by applying the proviso

which is appearing after Section 7(2) of the 1997 Act. Even if the aforesaid contention of Mr. Mukherjee is accepted, this Court has to consider *prima facie* as to whether the petitioner complied with the requirements under Section 7(2) of the 1997 Act within the time limit prescribed in the proviso appearing after Section 7(2) of the 1997 Act.

Section 7(2) of the 1997 Act states that if in any suit referred to in sub-section (1) there is any dispute as to the amount of rent payable by the tenant, the tenant shall, within the time specified in that sub-section, deposit with the civil judge the amount admitted by him to be due from him together with an application for determination of the rent payable. Thus, the tenant was required to deposit the admitted arrears of rent along with the application under Section 7(2) of the 1997 Act. The admitted arrears would also include the statutory interest of 10% per annum.

In the case on hand the petitioner did not deposit the admitted arrears of rent along with the filing of the application. Even if the contention of Mr. Mukherjee is accepted that the petitioner is entitled to an extension of time as stipulated in the proviso then the petitioner was required to deposit the admitted arrears of rent within the period of two months. Though the petitioner deposited the amount of arrear rent within a period of one month from the date of filing of the application

under Section 7(2) of the 1997 Act, but the statutory interest that the petitioner was also required to deposit along with the said application was deposit after two months of filing of such application.

For such reason, this Court holds even the proviso to Section 7(2) of the 1997 Act cannot come to the aid of the petitioner in the case on hand.

The learned trial judge was right in rejecting the application under Section 7(2) of the 1997 Act as the pre-conditions for adjudication of such application has not been satisfied in the case on hand.

For such reasons the ultimate conclusion arrived at by the learned trial judge does not call for any interference by this Court.

According, CO 1995 of 2025 stands dismissed.

There will be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Hiranmay Bhattacharyya, J.)