

CO 1954 of 2023

Gyatri Sharma & Anr.

Vs.

Krishna Ghosh & Ors.

Mr. Pinaki Ranjan Mitra

... For the Petitioners

Mr. Mrinal Kanti Ghosh

... For the Opposite Parties

1. Affidavit of service filed in Court is taken on record.
2. This revisional application is directed against the order dated 19.5.2023 passed by the learned Civil Judge, Junior Division, 6th Court at Howrah in Title Suit No. 140 of 2012.
3. The petitioners before this court are the substituted defendants in Title Suit No. 140 of 2012 pending before the learned Civil Judge, Junior Division, 6th Court at Howrah.
4. Title Suit No. 140 of 2012 was instituted by the opposite parties/plaintiffs against Ram Balak Sharma, since deceased. It appears from the order-sheets of the Title Suit that pursuant to the institution of Title Suit 140 of 2012, a notice was issued upon Ram Balak Sharma, since deceased, to appear on 05.9.2012. On 05.9.2012 Ram Balak Sharma appeared and filed a petition under Section 7(1) and 7(2) of the

West Bengal Premises Tenancy Act, 1997.

5. During the pendency of the suit Ram Balak Sharma died and the present petitioners Smt. Gyatri Sharma and Sri Santosh Sharma were substituted in place and stead of the said Ram Balak Sharma. It further appears from the record that the present petitioners, who are the legal heirs of Ram Balak Sharma, pursuant to their appearance in the suit, filed an application under Section 151 of the Code of Civil Procedure as well as under Section 7(1) and 7(2) of the West Bengal Premises Tenancy Act, 1997.
6. It appears from the order dated 19.5.2023 that the learned Trial Judge upon considering the application made under Section 7(1) and 7(2) of the West Bengal Premises Tenancy Act, 1997 by the petitioners/substituted defendants was pleased to dismiss the same as it was filed beyond the period of limitation provided under the statute. Thus the present position is that the application under Section 7(1) and 7(2) of the West Bengal Premises Tenancy Act which was filed by the original defendant/tenant Ram Balak Sharma, pursuant to his appearance, is undisposed till today. The application filed under Section 7(1) and 7(2) of the West Bengal

Premises Tenancy Act by the substituted defendants/tenants is not maintainable in the eye of law and misconceived. However, the application under Section 7(1) and 7(2) of the West Bengal Premises Tenancy Act filed by the original tenant Ram Balak Sharma, since deceased, is required to be disposed of in accordance with law.

7. Thus upon considering the facts and circumstances of the case and the materials on record, this revisional application is disposed of with a request upon the learned Trial Judge to consider and dispose of the application under Section 7(1) and 7(2) of the West Bengal Premises Tenancy Act, 1997 filed by the original tenant/defendant, Ram Balak Sharma, in accordance with law after giving an opportunity of being heard to the petitioners and the opposite parties. Such disposal of the applications u/s 7(1) and 7(2) of the West Bengal Premises Tenancy Act be made preferably within a period of 4 weeks from the next date fixed.
8. It is hereby made clear that this court has not gone into the merit of the case and all points are kept open to be agitated before the learned Trial

Court.

9. In view of the above, CO 1954 of 2023 stands disposed of.

10. Urgent Photostat copy of this order, if applied for, be given to the parties on usual undertaking.

(Biswaroop Chowdhury, J.)