

18.11.2025
Ct. No. 30
S.L. No. 41
SM

CO 2091 of 2024
Rabin Banerjee
Versus
Maya Ghosh & Ors.

Mr. Aditya Mondal
Mr. Subhasis Chakraborty
Mr. Amit Chowdhury
Ms. Sushmita Kumari Singh
.....for the petitioner
Mr. Shebatee Datta
Mr. Poulami Roy
.....for the opposite parties

1. Affidavit-of-service filed be kept with the record.
2. The present revisional application has been preferred being aggrieved by an order dated 12.04.2024 in Title Suit No. 1249 of 2021 passed by the Learned Civil Judge (Junior Division), 5th Court at Howrah.
3. Learned counsel for the petitioner submits that vide the order under challenge the petitioner tenant herein had prayed for leave to deposit the rent for three months which could not be paid due to some medical ailment. The said leave, is prayed for relying upon the proviso to Section 7(2) of the WBPT Act.
4. On perusal of the materials on record and on hearing the learned counsels for the parties it appears that the Trial Court had held as follows.

“Considered the submissions for Ld. Advocate of defendant and plaintiff Ld. Advocate for defendant

argued on the ground that the instant precedent deals post disposal of 7(2) petition but herein this case situation is different. In the aforesaid precedent it has been clearly decided by Hon'ble High Court of Calcutta that there is no scope for condonation of delay U/S. 151 and permitting the deposit rent which was not deposited in time. The legislature had not given any relaxation for extension of period U/S. 7(1). Section 5 has no application for condonation of delay. Considering the said petition the instant petition is not tenable in eyes of law.

Hence, it is

ORDERED

that U/S. 151 CPC dated 24.08.23 filed by defendant is hereby rejected on contest.”

5. The petitioner relies upon a judgment of a Co-ordinate Bench of this Court in **2015 SCC Online Cal 10441: (2015) 1 Cal LJ 333: (2015) 2 rcc 490 (2015) 4 CHN 699 Ashok Kumar Bhagnani versus Mansur Ahmed & Anr.** (para 5).

6. On the other hand, the learned counsel for the opposite party/landlord has relied upon the judgment of a Co-ordinate Bench of this Court passed in **2023 (4) ICC Om Prakash Agarwal versus Bijay Singh Dugar (Cal)** (para 15) and a judgment of the Supreme Court passed in **2025 SCC Online SC 1696 Seventh Day Adventist**

**Senior Secondary School versus Ismat Ahmed
& Ors.**

23. Similarly, Section 2 which deals with the situation of disputed rent, the tenant within the time specified in that Section i.e.. 7(1)(b) 'shall deposit the amount admitted by him to be due along with application for determination of rent. The proviso a*p_{r} ended therein relates to extension of time only once and upto a maximum period of two months. The proviso reads as ...an extension of time may be granted..."

24. In view of the plain reading of the provisions specified in Sections 7(1)(a) (b) (c) and 7(2) and also the proviso thereto, it is clear that for the purpose of payment or deposit of the arrears of rent or rent admitted to be due within the time as specified and also for filing of the application, the word 'shall' has been used. However, for the purpose of extension of time, the word 'may' has been used indicating discretion vested with the Court."

7. On hearing the learned counsels for the parties and on perusal of the materials on record it appears that admittedly the application under Section 7 (2) of the WBPT Act has not been disposed of till date and as such the question of

applying the proviso to the said Section does not arise.

8. In view of the said facts, this Court finds no irregularity in the order under challenge and the revisional application having no merit stands dismissed.

9. Trial Court to proceed with the case expeditiously.

10. Civil Revision 2091 of 2024 stands disposed of.

11. Photostat certified copy of this order, if applied for, be given to the parties on priority basis upon compliance of all formalities.

[Shampa Dutt (Paul). J]