

27.08.2025
Item No.18.
Court No.06.
S. De
265719

C.O. 2360 of 2025

Piyush Mohan Sukla.
Vs
Shantanu Bose.

Mr. Amit Baran Dash,
Mr. Raja Adhikary,
Mr. Mrinal Das,
Ms. Ankana Sarkar, ...for the petitioner.

Ms. Aditi Kumar, ...for the Opposite Party.

Affidavit-of-service filed in Court, is kept with
the records.

Though the matter is appearing under the
heading “extension of interim order” but with the
consent of the learned advocates for the respective
parties, the civil revisional application is taken up for
hearing by treating the same as on day’s list.

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.
14 dated June 11, 2025, passed by the learned Civil
Judge (Sr. Divn.), 9th Court, Alipore in Ejectment Suit
No.01 of 2024.

By the order impugned, the defence of the
petitioner against the delivery of possession was
struck off.

The learned advocate appearing for the petitioner submits that the suit filed by the opposite party herein was not on the grounds mentioned under Section 6 of the West Bengal Premises Tenancy Act, 1997 and, therefore, the provisions of Section 7 of the 1997 Act could not have been invoked in the case on hand.

The learned advocate appearing for the opposite party submits that the opposite party filed a suit for eviction. The petitioner is not paying any rent and/or occupational charges to the opposite party herein. She, therefore, submits that the learned Trial Judge was right in striking out the defence of the petitioner against the delivery of possession.

After going through the plaint of Ejectment Suit No.1 of 2024, this Court finds that the same was filed under the provisions of the Transfer of Property Act. The plaint states that the notice under Section 106 of the Transfer of Property Act has been duly served upon the petitioner herein. It is not in dispute that the licence fees/monthly rent of the suit property was Rs.14,000/- per month. Since the rent is beyond the prescribed limit as mentioned under Section 3 of the West Bengal Premises Tenancy Act, the tenancy in question cannot be governed under the provisions of the West Bengal Premises Tenancy Act. The suit was not filed on the grounds under Section 6 of the 1997

Act. In view thereof the provisions under Section 7 of the 1997 Act could not have been invoked in the case on hand. The learned Trial Judge failed to appreciate the fact that the provisions of Section 7 of the 1997 Act stands attracted only in a suit instituted under Section 6 of the 1997 Act. For such reason, this Court is inclined to interfere with the order impugned.

Accordingly, the order impugned stands set aside.

C.O. 2360 of 2025 stands allowed.

At this stage learned advocate appearing for the opposite party submits that the opposite party is entitled to occupational charges during the pendency of the suit. It will be open to the opposite party to take appropriate steps before the learned Trial Judge.

Urgent certified photostat copy of this order, if applied for, shall be given to the parties as expeditiously as possible on compliance with all the necessary formalities.

(Hiranmay Bhattacharyya, J.)