

21.08.2025
Item 870 ML.
Court No.6.
AB

C. O. 2170 of 2024

**Sri Gopal Chandra Dey
Vs
Mangoe Construction Pvt. Limited**

Mr. Rajdeep Bhattacharya,
Mr. Soumadeep Duttafor the Petitioner.

Affidavit of service filed in Court today is taken on record. In spite of service, none appears to oppose this civil revision application.

Mr. Bhattacharya, learned advocate appearing for the petitioner, submits that the notice for upgradation has also been served upon the opposite party through speed post.

Mr. Bhattacharya, learned advocate for the petitioner submits that the learned Trial Judge by an order dated 28.02.2017 held that the petitioner is a defaulter in payment of rent for the month of January 2017 and was directed to deposit the total amount of Rs.166.32 within a period of one month from the date of passing of the said order.

Mr. Bhattacharya further submits that the petitioner was not a defaulter in payment of rent for the month of January, 2017 and in support of such contention draws the attention of this Court to the challan showing civil deposit for the month of January 2017, which is annexed at page 38 of the civil revision application.

He further submits that the petitioner filed an application for reconsideration and/or modification of the order dated 28.02.2017 which stood rejected.

After going through the materials on record, this Court finds that the learned Trial Judge by an order dated 28.02.2017 directed the petitioner to deposit a sum of Rs.166.32 after holding that the petitioner is a defaulter in payment of rent for the month of January, 2017 i.e. for one month. From the challan annexed at page 38 of the civil revision application, it appears to this Court that the rent for the month of January, 2017 was deposited on 13.01.2017 i.e. prior to the order passed by the learned Trial Judge disposing of the application under Section 7(2) of the 1997 Act on 28.02.2017.

When a challan in support of the contention that the rent for the month of January 2017 was deposited in time, was produced before the learned trial judge, this Court is of the considered view that the learned Trial Judge ought to have considered the challan which has been filed by the petitioner along with the application under Section 151 of the Code of Civil Procedure instead of rejecting the same by taking a hyper-technical approach.

Accordingly, the impugned order is set aside. The learned Trial Judge is directed to reconsider the application under Section 151 of the Code of Civil

Procedure and to pass an order accordingly after taking note of the challan for the month of January, 2017, which has been produced by the petitioner before the learned Trial Judge.

With the aforesaid observation, C. O. No.2170 of 2024 stands allowed.

(Hiranmay Bhattacharyya, J.)