

Sl.26
04.08.2025
Court No.6
BP

C.O. 2182 of 2024

Mr. Sohan Lal Mohta
-versus-
Sri Anil Kumar Soni & Anr.

Mr. Soumabha Ghose
Mr. Prithwish Roy Chowdhury
Ms. Deepti Priya
... for the petitioner

Mr. Krishna Das Poddar
Ms. Mandira Barman
..for the opposite parties

This application under Article 227 of the Constitution of India is at the instance of the defendant and is directed against an order dated April 16, 2024 passed by the learned Judge, 2nd Bench, Presidency Small Causes Court at Calcutta in Ejectment Suit No. 186 of 2021.

By the order impugned the application under Section 5 of the Limitation Act filed for condonation of delay in filing the applications under Section 7(1) and Section 7(2) of the West Bengal Premises Tenancy Act, 1997 stood rejected and consequently the defence of the petitioner against delivery of possession was struck out.

Mr. Ghosh, learned advocate appearing for the petitioner submits that after being served with the copy of the summons the petitioner approached the learned advocate who advised them to file an application under Order 7 Rule 11 of the Code of Civil Procedure. He

submits that such application stood dismissed and the petitioner unsuccessfully challenged the same by filing an application under Article 227 of the Constitution of India before this Hon'ble Court. He further submits that thereafter the petitioner filed the applications under Section 7(1) and Section 7(2) of the West Bengal Premises Tenancy Act praying for determination of landlord-tenant relationship between the parties and for determining the amount which may be in arrears. He further submits that the petitioner acted on the basis of the advice of the learned advocate and should not be made to suffer for the wrong advice on the part of the learned advocate.

The learned advocate appearing for the opposite parties submits that the applications under Section 7(1) and Section 7(2) of the West Bengal Premises Tenancy Act, 1997 was filed long after the stipulated time limit. He further submits that it is now well settled that the delay in filing the applications under Section 7(1) and Section 7(2) of the West Bengal Premises Tenancy Act, 1997 cannot be condoned in exercise of powers under Section 5 of the Limitation Act.

Heard the learned advocates for the respective parties and perused the materials placed.

It is not in dispute that the defendant/petitioner herein entered appearance in the suit by filing a vakalatnama on November 16, 2021 and the applications under Section 7(1) and Section 7(2) of the 1997 Act has

been filed on 8th June, 2023. Thus it is not in dispute that the aforesaid applications were filed long after the stipulated time limit as prescribed in Section 7 of the 1997 Act. It is now well settled that delay in filing the applications under Section 7(1) and Section 7(2) of the 1997 Act cannot be condoned.

The learned trial judge took note of the decisions of this Hon'ble Court as well as the Hon'ble Supreme Court and was right in rejecting the application under Section 5 of the Limitation Act. The learned trial judge was right in invoking the provisions of Section 7(3) of the 1997 Act thereby striking out the defence of the petitioner against delivery of possession.

In view thereof, this Court is not inclined to interfere with the order impugned.

Accordingly, C.O. 2182 of 2024 stands dismissed.

There shall be, however, no order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Hiranmay Bhattacharyya, J.)