

D/L- 15
28/07/2025
Ct. No.-6
Aritra

C.O. 2470 of 2025

**Sri Shambhu Nath Manna
Vs.
Sri Tapas Mitra & Anr.**

Mr. Sudip Sarkar
Mr. Shaunak Ghosh
Ms. Sneha Maity

...for the petitioner

Mr. Rwitendra Banerjee
Mr. Goutam Das
Mr. Dulal Sarkar

....for the opposite party

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.377 dated June 18, 2025 passed by the learned Civil Judge (Jr. Div.), 2nd Court at Chadernagore, District-Hooghly in Title Suit No.128 of 2007.

By the order impugned, the application under Section 7(3) of the West Bengal Premises Tenancy Act, 1997 was allowed and a date was fixed for cross-examination of P.W. 1 only on the point of service and efficacy of the notice of eviction and maintainability of the suit.

The learned advocate appearing for the petitioner submits that the petitioner is ready and willing to deposit the amount subject to payment of cost.

Such submission is seriously opposed by Mr. Banerjee, learned advocate for the opposite party.

It is not in dispute that the application under Section 7(2) of the 1997 Act was disposed of by an order dated September 24, 2010, but the petitioner has not complied with the directions contained in the said order. The petitioner filed a revision application challenging the said order which also stood dismissed.

The learned trial judge was right in applying the provisions of Section 7(3) of the 1997 Act thereby striking out the defence of the petitioner against the delivery of possession.

After going through the impugned order, this Court finds that the learned trial judge took note of the decision of the Hon'ble Supreme Court in the case of **Modula India vs. Kamakshya Singh Deo**, reported at **AIR 1989 SC 162**, and was right in holding that the defendant can cross-examine the witness only on the limited aspect as indicated in the said order.

This Court does not find any infirmity in the order impugned warranting inference under Article 227 of the Constitution of India.

Accordingly, CO 2470 of 2025 stands dismissed.

There will be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Hiranmay Bhattacharyya, J.)