

Item No. 2
17.12.2025
Court. No. 6
GB

C.O. 2492 of 2025

Dulichand Bothra (HUF)
Represented by Pradip Sancheti
Vs.
Rajesh Saraf & Anr.

*Mr. Jayjit Ganguly,
Ms. Arundhati Ray Barman,
Mr. Biswajit Chowdhury,
Mr. Jatan Monda*

...for the Petitioner.

*Ms. Malaysree Maity,
Mrs. Swagata Datta,
Mr. Nishant Kumar*

...for the Opposite Party No.1.

1. The petitioner is aggrieved by the order dated April 25, 2025, passed by the learned Civil Judge (Senior Division), 1st Court at Alipore in Ejectment Suit No.14 of 2022.
2. By the order impugned, the learned court allowed an application under Section 7(1) of the West Bengal Premises Tenancy Act, 1997 (hereinafter referred to as the 'said Act'). The learned court was of the view that, as the summons were delivered on one Vinita Saraf in respect of one of the defendants and the delivery in respect of the other defendant was not available from the postal receipt, the application under Section 7(1) of the said Act could not be treated to be time barred. The learned court allowed payment by the defendants for an amount of Rs.3,000/- per month from the month of June 2022. The court recorded that payment up to May 2022 to the tune of Rs.3,000/- per month

had been made with the rent control, without calling for the challans.

3. It appears that the suit was filed on March 30, 2022. The next date was fixed on July 12, 2022. The application under Section 7(1) of the said Act was filed on June 30, 2022 along with an application under Section 151 of the Code of Civil Procedure. The defendants pointed out the irregularity in the service by the said application as well.
4. It is submitted that the delivery of the summons was made on Vinita Saraf, who is the daughter-in-law of one of the defendants. Reliance has been placed on the provisions of the Code of Civil Procedure which provides that service upon an agent is also good service. Vinita is the daughter-in-law of one of the defendants. This aspect should have been decided by the learned court in greater detail.
5. The records reveal that by an order dated May 13, 2024, the court had recorded that the defendants had received summons on April 13, 2022 as would be reflected from the track report, but due to ignorance of law, they could not contact the learned advocate. They filed the application under Section 7(1) of the said Act on June 30, 2022. The court recorded that there was no intentional laches on the part of the defendants in filing the belated.
6. It is submitted that a recalling application to the said order has been filed, but the learned advocate is not in

a position to demonstrate before the court whether the said order has been recalled or not.

7. If the order dated May 13, 2024 survives, in that event, the application under Section 7(1) of the said Act becomes time barred and consequences thereof shall follow.
8. Under such circumstances, the revisional application is allowed. The order impugned is set aside, with a direction upon the learned court to decide the application afresh and return reasons as to whether the said application was filed within time and whether the provisions of Section 7 of the said Act had been complied with or not, upon taking note of the postal track reports and evidence of service of summons. However, the month to month deposit of rent at the rate of Rs. 3000 be made by the defendants without prejudice.
9. Accordingly, the application is disposed of.
10. Parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)