

30.07.2025
Item no. 23.
Court No.6.
AB

C. O. 2698 of 2025

**Hasan Iqbal & Others
Vs
Shaheda Jilani**

Mr. Indrajit Bhattacharjee
Ms. Malaya Roy Choudhury
.....for the Petitioners.

Mr. Madhu Jana,
Mr. Rahul Agarwala,
Mr. Golam Zakyfor the Opp. Party.

This application under Article 227 of the Constitution of India is at the instance of the defendants and is directed against an order being no.20 dated 17.06.2025 passed by the learned Civil Judge (Jr. Division), 2nd Court at Alipore, South 24 Parganas in Ejectment Suit No.99 of 2020.

By the order impugned, the application under Sections 7(1) and 7(2) of the West Bengal Premises Tenancy Act, 1997 stood rejected and the defence of the petitioners against delivery of possession was struck off under the provisions of Section 7(3) of the West Bengal Premises Tenancy Act, 1997.

The learned advocate appearing for the petitioners submits that the petitioners are not the defaulters in payment of rent. He submits that all along till date, the petitioners are depositing rent with the Rent Controller since the opposite party refused to accept rent from the petitioners. He further submits

that since the petitioners cannot be said to be the defaulters in payment of rent, the learned Trial Judge ought not to have struck out the defence of the petitioners against delivery of possession.

Learned Advocate for the opposite party submits that even after service of summons, the petitioners continued to deposit rent with the Rent Controller instead of making deposit before the learned Civil Judge. He further submits that there has been violation of Sections 7(1) and 7(2) of the West Bengal Premises Tenancy Act, 1997 and the learned Trial Judge was right in striking out the defence of the petitioners against delivery of possession.

It has been stated in the application under Section 7(2) of the West Bengal Premises Tenancy Act, 1997 that the summons of the suit was served on March 12, 2021. It is the specific case of the petitioners that the petitioners were depositing the rent with the Rent Controller regularly.

It is not in dispute that even after service of summons in the suit, the petitioners continued to deposit rent with the Rent Controller.

Section 7(1)(a) of the West Bengal Premises Tenancy Act, 1997 states that on a suit being instituted by the landlord for eviction on any of the grounds referred to in Section 6, the tenant shall, subject to the provisions of sub-section (2) of this

section, pay to the landlord or deposit with the Civil Judge all arrears of rent, calculated at the rate at which it was last paid and up to the end of the month previous to that in which the payment is made together with interest at the rate of 10% p.a.

Clause (b) of sub-section 1 of Section 7 states that such payment or deposit shall be made within one month of the service of summons on the tenant or where he appears in the suit without the summons being served upon him within one month of his appearance.

Clause (c) of Section 7(1) states that the tenant shall thereafter continue to pay to the landlord or deposit with the Civil Judge month by month by the 15th of each succeeding month, a sum equivalent to the rent at that rate.

Sub-section 2 of Section 7 states that if in any suit referred to in sub section (1), there is any dispute as to the amount of the rent payable by the tenant, the tenant shall within the time specified in that sub section deposit with the Civil Judge the amount admitted by him to be due from him together with an application for determination of the rent payable. Upon receipt of such application, the Civil Judge is required to adjudicate such application.

Though it may be the case of the petitioners that they are not the defaulters in payment of rent, but the

petitioners being tenants were obliged to deposit rents either under the provisions of Section 7(1) of the 1997 Act or under the provisions of Section 7(2) of the 1997 Act.

In the case on hand, admittedly the petitioners did not deposit the rent before the Civil Judge even after appearing in the said suit. Therefore, the learned Trial Judge was right in rejecting the applications under Sections 7(1) and 7(2) of the 1997 Act as there was non-compliance of the provisions of Section 7(1) or 7(2) of the 1997 Act on the part of the petitioners herein. The learned Trial Judge was thus right in invoking the provisions of Section 7(3) of the 1997 Act and striking out the defence of the petitioners against delivery of possession.

For such reason, this Court is not inclined to interfere with the order impugned.

Accordingly, C. O. No.2698 of 2025 stands dismissed.

There shall be no order as to costs.

All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

(Hiranmay Bhattacharyya, J.)

