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28.08.2025
Ct. No.-6
D.Hira

C.O. 3132 of 2025

Bijay Bhusan Jaiswal
Vs.
Goutam Chandra Dey

Mr. Bikram Banerjee,
Ms. Sagnika Goswami,
Ms. Adrita Dey.

...for the petitioner

Mr. Sirshendu Bikash Pal.

... for the opposite party

This application under Article 227 of the Constitution of India is at the instance of the plaintiff and is directed an order dated May 16, 2025 (Order No. 38) passed by the learned Judge, Bench – V, Presidency Small Causes Court at Calcutta in Ejectment Suit No. 35 of 2021.

By the order impugned, an application under Section 151 of the Code of Civil Procedure filed by the petitioner herein praying for condonation of delay in depositing the rent for the month of November, 2024 stood rejected and consequently, an application under Section 7(3) of the 1997 Act stood allowed.

It is not in dispute that the rent for the month of November , 2024 which was to be deposited within December 15, 2024, was deposited on December 18, 2024.

Mr. Bikram Banerjee, learned advocate appearing for the petitioner submits that December 14, 2024 and December 15, 2024 were holidays and the petitioner

made an attempt to deposit the same on December 16 and December 17, 2024 but could not do so due to unavoidable circumstances. However, the petitioner deposited the rent for the month of November, 2024 on December 18, 2024 and for the purpose of condonation of delay in depositing the rent, the petitioner filed an application under Section 151 of the Code of Civil Procedure.

Heard the learned advocate appearing for the opposite party on such submission.

It is not in dispute that the rent for the month of November, 2024 was not deposited within the time limit stipulated under Section 7 (1) (c) of the 1997 Act.

It is now well-settled that the delay in depositing the current rent in terms of the provisions of Section 7 (1) (c) cannot be condoned under Section 5 of the Limitation Act. The time limit for making such deposit also cannot be extended by exercising inherent powers under Section 151 of the Code of Civil Procedure.

The learned Trial Judge after applying the proposition of law laid down in the decision of the Hon'ble Supreme Court in the case of ***Bijay Kumar Singh vs. Amit Kumar Chamaria*** reported in **2019 10 SCC 660** rejected the prayer for extension of time to deposit the rent for the month of November, 2024.

This Court finds that the order dated May 16, 2025 rejecting the application under Section 151 of the Code of

Civil Procedure do not suffer from any infirmity, warranting interference under Article 227 of the Constitution of India.

Since, there was non-compliance of the provisions laid down under Section 7 (1) of the 1997 Act, the provisions of Section 7(3) of the said Act automatically stood attracted. In the case of hand, the opposite party filed an application under Section 7(3) of the 1997 Act and the learned Trial Judge after considering that there was failure on the part of the petitioner to comply with the provisions of Section 7(1) of the 1997 Act rightly allowed the application under Section 7(3) of the 1997 Act, thereby striking out the defense of the petitioner against delivery of possession.

The impugned order striking out the defense of the petitioner against delivery of possession does not suffer from any infirmity.

For the above reasons, this Court is not inclined to interfere with the order impugned. Accordingly, C.O. No. 3132 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.)