

Sl.33
03.09.2025
Court No.6
BP

C.O. 3254 of 2025

Bahauddin Reza
-versus-
Md. Tazim Khan

Mr. Md. Nure Zaman
Ms. Anima Chakraborty
... for the petitioner

This application under Article 227 of the Constitution of India is at the instance of the plaintiff and is directed against the orders being no.22 and 31 dated 27th February, 2024 and 5th May, 2025 respectively both passed by the learned Judge, 3rd Bench, Presidency Small Causes Court at Calcutta in Ejectment Suit No. 139 of 2019.

By the order dated 27th February, 2024 the learned trial judge allowed the application under Section 7(1) of the West Bengal Premises Tenancy Act, 1997 and permitted the defendant to deposit the admitted arrears along with statutory interest as well as current rent month by month. By the order dated 5th May, 2025 the application under Section 7(2) of the 1997 Act was disposed of upon holding that the defendant/opposite party herein is not a defaulter in payment of rent since May, 2016.

The learned advocate appearing for the petitioner submits that in spite of service of summons upon the defendant/opposite party herein no application under Section 7(1) and 7(2) of the 1997 Act was filed within the

time limit stipulated in the said statute. He further submits that the defendant/opposite party herein even after entering appearance in the said suit deposited rent before the rent controller in utter disregard of the provisions of Section 7(1)(a) of the West Bengal Premises Tenancy Act, 1997.

After going through the materials on record this Court finds that the ex parte order was vacated on 19th December, 2023 and the copy of the plaint was served upon the defendant/opposite party herein only on 31st January, 2024. The applications under Section 7(1) and Section 7(2) of the 1997 Act was filed on 27th February, 2024 i.e. within one month from the date of service of the copy of the plaint upon the defendant/opposite party herein. By the order dated 27th February, 2024 the application under Section 7(1) of the West Bengal Premises Tenancy Act, 1997 was allowed thereby permitting the defendant/opposite party to deposit the admitted arrears along with statutory interest and current rent month by month to the credit of the plaintiff. Thereafter, the application under Section 7(2) of the West Bengal Premises Tenancy Act, 1997 was allowed. The defendant/opposite party herein admitted the existence of landlord tenant relationship between the parties. No dispute with regard to the rate of rent was also raised by the defendant/opposite party herein. The learned trial judge recorded that in compliance with the order passed

under Section 7(1) of the 1997 Act the defendant/opposite party herein deposited the arrear rent on and from the month of May, 2016 to December, 2017 along with statutory interest and also that the defendant/opposite party has been depositing current rents month by month from February, 2024 till the April, 2025.

The petitioner did not challenge the order dated 27th February, 2024 till the application under Section 7(2) of the 1997 Act was disposed of. In the order dated 5th May, 2025 the learned trial judge has recorded that the copy of the plaint was received by the defendant/opposite party only on 31st January, 2024 pursuant to the order dated 27th February, 2024. This observation prompted the petitioner to challenge the order dated 27th February, 2024 before this Court by filing an application under Article 227 of the Constitution of India only on August 29, 2025 i.e. after more than one and half years of passing of the order dated 27th February, 2024. The inordinate delay in filing the civil revisional application challenging the order dated 27th February, 2024 has not been satisfactorily explained by the petitioner. That apart it is not in dispute that the ex parte order was vacated and the copy of the plaint was served only on January 31, 2024. The application under Section 7(1) and 7(2) of the 1997 Act were filed within the stipulated time limit from the date of receipt of the copy

of the plaint. The defendant/opposite party has also deposited the entire arrears of rent pursuant to an order passed under Section 7(1) of the 1997 Act and thereafter continued to deposit the current rent month by month.

The learned advocate appearing for the petitioner could not demonstrate that there was failure on the part of the defendant/opposite party to deposit the arrear rent as directed by the order dated 27th February, 2024 or the current rents within the time limit stipulated under the 1997 Act. The learned trial judge has assigned cogent reasons for holding that the defendant/opposite party is not a defaulter in payment of rent since May, 2016.

For all the reasons as aforesaid, this Court is not inclined to interfere with the orders impugned.

Accordingly, C.O. 3254 of 2025 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.)