

24 **09.09.
2025**

Ct. No. 06

Ab

**IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION.**

CO 3349 of 2025

**Vensimal World Travel Agents Private Limited
Vs.
Maharshi Commerce Limited.**

**Mr. Arif Ali,
Mr. Adil Rashid,
Mr. Rajdeep Mantha,
Mr. S. Bhattacharjee.**

... for the petitioner

**Mr. Rahul Karmakar,
Mr. Avinash Kankani,
Mr. Arun Kumar Sharma,
Mr. Sagnik Mukherjee,
Mr. Rajat Dev Sharma.**

... for the opposite party.

1. This application under Article 227 of the Constitution of India is at the instance of the defendant and is directed against the order dated 7th August 2025 passed by the learned Judge, XIth Bench, City Civil Court, Calcutta in Ejectment Suit No. 09 of 2024.
2. By the order impugned, an application under Section 7(1) and 7(2) of the West Bengal Premises Tenancy Act, 1997 (in short '1997 Act') stood dismissed on the ground that the same were not filed within the prescribed period of limitation.
3. Learned Advocate for the petitioner submits that the summons of the suit was served on 25th September 2024 and the date of appearance of the defendants in the said suit as per the said summons was on 17th February 2025. He further submits that on the returnable date, the petitioner entered appearance in the said suit and filed applications under Section 7(1) and Section 7(2) of the 1997 Act praying for

depositing the rent on and from the month of January 2025. He further submits that a date has been fixed in the summons for appearance and the applications under Section 7(1) and Section 7(2) of the 1997 Act are filed on that date and, therefore, the said applications could not have been dismissed on the ground of limitation. He places reliance upon the provisions of Section 7(1)(b) of the 1997 Act in support of his contention that the application under Section 7(1) can be filed within one month from the date of appearance.

4. Learned Advocate for the petitioner further submits that the one of the Directors of the defendants' company was seriously ill and the other Directors were busy in attending the said Director and for which the application under Section 7(1) and Section 7(2) of the 1997 Act could not be filed at an earlier point of time. He also submits that since the registered office of the defendants' company is at Mumbai and some of the Directors are residing in Mumbai, the defendants were not aware of the provisions of the 1997 Act for which the applications could not be filed within the prescribed period of time.
5. Mr. Rahul Karmakar, learned Advocate appearing for the opposite party, disputes the submissions made by the learned Advocate for the petitioner. He submits that as per the provisions of Section 7 of the 1997 Act, the application under Section 7(1) and 7(2) ought to have been filed within one month from the date of service of summons. He further submits that since the summons was served on 25th September 2024 and the said applications were filed on 17th February 2025, the learned trial Judge was right in rejecting the said applications.
6. Heard the learned Advocate appearing on behalf of

the respective parties and perused the materials placed. Section 7(1)(a) of the 1997 Act 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 ten per cent per annum.

7. 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.
8. Clause (c) of sub-section (1) of Section 7 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 comes into the operation if a dispute as to the amount of the rent payable by the tenant has been raised by the tenant.
9. Section 7(1) of the 1997 Act does not contemplate the filing of any application and the tenant upon a suit being instituted by the landlord on any of the grounds enumerated under Section 6 of the 1997 Act, is obliged to pay or deposit the entire arrears of rent within one month of the service of summons on tenant. It has been admitted by the defendant/petitioner herein that the petitioner entered appearance in the suit after the summons was served upon him.
10. Therefore, the second limb of clause (b) of sub-

section (1) of Section 7 shall not come to the aid of the petitioner in the case on hand. Thus, immediately upon service of summons upon the tenant, the tenant was under a statutory obligation to deposit the arrears of rent within one month from the date of service of such summons and 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.

11. In the case on hand, the defendant appeared on the returnable date and chose to file an application under Section 7(1) praying for permission to deposit rent. Even on that date, the defendant did not deposit the arrears of rent. Some of the Directors may be residing outside the State, but the tenant/defendant being a private limited company cannot take the defence that they were not aware of the provisions of law prevailing in the State where the suit property is situated.
12. It is now well-settled that the delay in filing the application under Section 7(1) and Section 7(2) cannot be condoned under Section 5 of the Limitation Act. Time to file the said applications also cannot be extended in exercise of powers under Section 151 of the Code.
13. The learned trial Judge took note of the decision of the Hon'ble Supreme Court in case of **Bijay Kumar Singh vs. Amit Kumar Chamaria**, reported at **(2019) 10 SCC 660** and correctly applied the provisions of law laid down to the facts of the case on hand.
14. In view of the aforesaid discussions, to the mind of this Court, the learned trial Judge was right in dismissing the applications under Section 7(1) and Section 7(2) of the 1997 Act.

15. Accordingly, CO 3349 of 2025 is dismissed.
16. There shall, however, be no order as to costs.
17. Urgent Photostat certified copy of this order, if applied for, be given to the parties on priority basis.

(Hiranmay Bhattacharyya, J.)