

05.12.2025
Ct. No. 30
SL No. **06**
MKP

CO 3094 of 2023

M/S Elgin Properties

Vs.

M/S Deinor And Company & Ors

Mr. Ayan Boral (V/C)
Mr. Debjit Mukherjee
Ms. Priyanka Jana
Ms. Sucheta Das

.....for the Petitioner

Name not supplied

.....for the State-Respondent

1. Affidavit-of-service and supplementary affidavit filed be kept with the record.
2. The revisional application has been preferred being aggrieved by an order no.7 dated 4th August, 2023 passed by the Learned Civil Judge (Jr.Division), 4th Court at Alipore in Ejectment Suit No. 55 of 2022.
3. Vide the order under challenge, the Trial Court has held as follows:

*“Deposit under Section 7(1)
shall be made by the tenant within
one month from the date of service of
summons, or within one month of his
appearance and the date on which*

the summons has been served must be excluded for the purpose of calculation of one month. Therefore, it cannot be said that the given applications were made beyond one month from the date of receipt of notice.

Here, one cannot say there is no dispute as to the amount of rent payable by tenant for plaintiff has disputed defendant is a defaulter in payment of maintenance charges etc. which does not fall outside the purview of the word 'rent'.

In view of the above discussions, I do not find any illegality on the part of defendant to prefer the given applications."

4. Section 7(1)(b) of the West Bengal

Premises Tenancy Act, 1997, lays down:

*"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."*

From the documents annexed to the supplementary affidavit, it appears that the defendant-opposite party, herein, was duly served on 08.04.2022.

5. The application under Section 7(1) was filed before the Trial Court on 20th May, 2022 (page 31). As such there appears to be prima facie delay in filing the said application.
6. The findings of the Learned Trial Judge in respect of the delay is prima facie not in accordance with law and as such the order under challenge is set aside with a direction to the Learned Trial Judge to consider the said application under Section 7(1) of the W.B.P.T.Act, 1997 afresh and dispose of the same in accordance with law, within one month from the date of communication of this order.
7. The Trial Court shall also make all endeavour to dispose of the said expeditiously, preferably within one year from the date of this order.
8. The Civil Revision stands **disposed of**.

9. Applications, if any, connected thereto stand disposed of consequently.
10. Interim order, if any, stands vacated.
11. Photostat certified copy of this order, if applied for, be given to the parties on priority basis upon compliance of all formalities.

[Shampa Dutt (Paul). J]