

Court No. 6

(265719)

24.10.2025

(AD 16)

(S. Banerjee)

CO 3442 of 2025

Ashoke Kumar Tantiya

Vs.

Vishnu Narayan Kashyap

Mr. Anirban Roy

...for the petitioner

This application under Article 227 of the Constitution of India is at the instance of the defendant and is directed against order no. 112 dated November 16, 2024 and order no. 116 dated July 29, 2025 both passed by the learned 2nd Judge, Presidency Small Causes Court at Calcutta in Ejectment Suit No. 395 of 2011.

By the order dated November 16, 2024, the application under Section 151 of the Civil Procedure Code was allowed and the application under Section 7(3) of the West Bengal Premises Tenancy Act, 1997 was restored to its original file and number and was directed to be reheard and the plaintiff was given liberty to file a supplementary affidavit with regard to the application under Section 7(3) of the 1997 Act and the defendant/petitioner herein was given liberty to file affidavit-in-opposition against the

supplementary affidavit. The petitioner thereafter filed an application under Section 151 of the Civil Procedure Code praying for recalling of the order dated November 16, 2024 which ultimately stood rejected by the order dated July 29, 2025.

Learned advocate appearing for the petitioner submits that the learned trial judge in the order dated November 16, 2024 have made certain observations on the merits of the application under Section 7(3) of the 1997 Act which prompted the petitioner to file the application under Section 151 of the Civil Procedure Code.

It appears from the record that the application under Section 7(3) of the 1997 Act was directed to be reheard and the parties were directed to file supplementary affidavit and the supplementary affidavit-in-opposition thereto.

Since the application under Section 7(3) of the 1997 Act shall be heard afresh, this court is of the considered view that the grievance of the petitioner shall be redressed by passing the following order –

The learned trial judge shall decide the said application on its own merit without being swayed by any of the observations made by the learned trial

judge either in the order dated November 16, 2024 or July 29, 2025.

With the above observations CO 3442 of 2025 stands disposed of.

(Hiranmay Bhattacharyya, J.)