

29.10.2025

Court No.39

DL/Item No.-4

[Milan, A.R. (Ct.)]

**IN THE HIGH COURT AT CALCUTTA
Civil Revisional Jurisdiction
Appellate Side**

CO 3596 of 2025

**Sukhen Banerjee
versus
Subrata Saha & Anr.**

Mr. Animesh Paul,
Ms. Manisha Upadhyay

....for the Petitioner

Ms. Dolon Dasgupta

....for the Opposite Party

The petitioner is the defendant in a suit for eviction in connection with a tenancy governed by the provisions of West Bengal Premises Tenancy Act, 1997 (hereinafter referred to as, “the 1997 Act”). The petitioner, upon having received the summons, made an application under Section 7(1) of the 1997 Act. The Trial Court allowed the application by permitting the petitioner to deposit the arrears and the current rent month by month. The petitioner defaulted in paying the current rent for five months. The petitioner had also made an application under Section 7(2) of the 1997 Act, which is an application essentially for adjudication of the amount of rent, the tenant is liable to pay.

There is, however, no dispute as to the quantum of rent. The dispute appears to be in respect of the period for which the rent had fallen in arrears.

The petitioner says that despite the application under Section 7(2) of the 1997 Act, having remained pending, the learned Trial Court refused to condone the default in paying the current rent in terms of the order passed by the Trial Court under Section 7(1) of the 1997 Act and permitting the petitioner to deposit the defaulted amount. By doing so, the Trial Court, according to the petitioner, has acted illegally and with material irregularity. As a consequence of the default, the Trial Court has directed the defence of the petitioner (defendant) in the suit to be struck off. Being aggrieved by such order, the present revisional application has been filed.

The whole basis of making the application under Section 7 (1) of the 1997 Act and Section 7 (2) of the 1997 Act are different. Under the provisions of Section 7(1) of the 1997 Act, the tenant approaches the Court to deposit the rent when there is no dispute as to the quantum of rent to whom the rent is to be paid at the period of default. There appears to be no dispute as to the quantum of rent, the person to whom it has to be paid and the period for which it is to be paid when a tenant makes an application under Section 7(1) of the 1997 Act. The provisions of Section 7(2) of the 1997 Act gets attracted to grant the tenant an opportunity to deposit the amount which is due, according to tenants, is payable with prayer for adjudication of amount of rent

when there is a dispute as to the quantum of rent payable.

In the instant case, the petitioner, on having applied under Section 7(1) of the 1997 Act has thereby, accepted the opposite party (plaintiff) as the landlord and has also not disputed the period of default, the quantum of rent as the money payable as the last paid rent was tendered in Court for being deposited.

The default after obtaining the order under Section 7(1) of 1997 Act is admitted. The Trial Court has after taking into account the default has declined to exercise the discretion vested on it to allow the default being condoned, I do not find any material irregularity far less illegality in the order impugned as the same is the natural consequence and the fall out in a case of default in respect of depositing the rent, after obtaining an order under the provisions of Section 7 (1) of the 1997 Act.

The reasons for default may be diverse but default stands admitted. In the instant case, since the Trial Court has declined to exercise the discretion after due consideration of the petitioner's case, I do not find any reason to interfere with the same. The pendency of the application under Section 7(2) of the 1997 Act, also does not aid and assist the petitioner in his default being condoned when it is an admitted position that the petitioner, after obtaining an order in an application

under Section 7(1) of the 1997 Act has committed the default.

In the light of the discussions as aforesaid, I do not find any merit in this revisional application. The same being CO 3596 of 2025 is accordingly dismissed.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities

(Arindam Mukherjee, J.)