

11.06.2025
Item No.24
Ct. No. 30
Aloke

CO 4002 of 2024

Prabir Kumar Dutta
Vs.
Nirmalya Srimani & Ors.

Ms. Tuli Sinha
... for the petitioner

Mr. Lakshmi Narrayan Banerjee
... for the opposite parties

1. The revisional application has been preferred against order no. 38 dated 23.08.2024 passed by the learned 4th Judge, SCC, in Ejectment Suit No. 256 of 2019 pending before the learned 4th Judge, SCC, Calcutta.
2. Vide the order under challenge the trial Court considering the materials on record on the finding that the defendant/petitioner herein having not complied with the direction of the Court in respect of an application under Section 7(2) of the West Bengal Premises Tenancy Act allowed the plaintiff's application under Section 7(3) of the WBPT Act.
3. It is the contention of the defendant/petitioner that the trial Court has passed an erroneous order as the tenancy agreement between the parties dated 01.12.2012 shows that an advance to the tune of Rs.4,30,000/- was received by the landlord and it was to be adjusted towards rent on and from 01.12.2012 and as such direction for

payment on and from August, 2016 was also to be adjusted accordingly.

4. It is stated that the said adjustment was not considered by the Court and, as such, the order challenged is liable to be set aside.

5. Affidavit-in-opposition and reply thereto has been filed.

6. The plaintiff/opposite party herein has filed a copy of the tenancy agreement which at page 5 of the agreement **does not** contain the following portion :

“Advance received Rs.4,30,000/- will convert into rent 01.12.2012 onwards”, which is part of the copy filed by the petitioner/defendant.

7. It is the case of the plaintiff/opposite party that the said part of the tenancy agreement has been forged. On a casual glance of the said portion at page 5 of the copy of the tenancy agreement filed by the defendant/petitioner herein. It is apparent on the face of the record that the said portion has been typed by a separate type writer and thus there are chances that the same was incorporated subsequently. More so because the said two lines are not present in the copy of the agreement placed by the plaintiff/opposite party along with his affidavit-in-reply.

8. In view of the said fact the learned Chief Judge while considering the prayer under Section 7(2)

of the WBPT Act rightly directed the payment of rent to be made on and from August, 2016.

9. The case of the defendant/petitioner herein that the advance as claimed is to be adjusted against the said payment which the trial court failed to do and, as such, the order is bad in law is not substantiated and is thus rejected.

10. Considering the observations as made above, this Court finds that vide the order under challenge the learned trial Court rightly decided the issue, as it was clear that there was no compliance of the order under Section 7(2) of the WBPT Act and rightly allowed the application under Section 7(3) of the WBPT Act, 1997 filed by the plaintiff/opposite party.

11. The order under challenge thus being in accordance with law requires no interference by this Court.

12. The present civil revision is accordingly dismissed.

13. All connected applications, if any, stand disposed of.

14. Interim order, if any, stands vacated.

15. Urgent Photostat certified copy of this order, if applied for, be given to the parties, upon usual undertakings.

(Shampa Dutt (Paul), J.)