

Sl.37
04.08.2025
Court No.6
BP

C.O. 3681 of 2024

Kamal Mehra & Anr.
-versus-
Sujoy Kumar Dey

Mr. Subhendu Bhattacharjee
Ms. Seuli Banerjee
... for the petitioners

Mr. Debmalya Ghoshal
Ms. Amrita De
..for the opposite party

This application under Article 227 of the Constitution of India is at the instance of the defendant and is directed against an order dated 6th September, 2024 passed by the learned Civil Judge (Junior Division), 4th Court at Alipore in Ejectment Suit No. 226 of 2019.

By the order impugned the applications under Section 7 (1) and Section 7(2) of the West Bengal Premises Tenancy Act, 1997 along with the application under Section 5 of the Limitation Act was rejected.

The learned advocate appearing for the petitioners submits that for reasons beyond control of the petitioners the application under Section 7(1) and Section 7(2) of the West Bengal Premises Tenancy Act, 1997 could not be filed within the stipulated time limit. He submits that the delay in filing the application be condoned and the petitioner be permitted to deposit the arrears of rent.

The learned advocate appearing for the opposite party submits that it is now well settled that the application under Section 5 of the Limitation Act praying for condonation of delay in filing the application under Section 7(2) of the 1997 Act is not maintainable. He places reliance upon a decision of the Hon'ble Division Bench in the case of Calcutta Gujrati Education Society Vs. Ajit Narayan Kapoor reported at 2021 SCC OnLine Cal 4321.

The Hon'ble Division Bench after noticing the judgement of the Hon'ble Supreme Court in the case of Bijay Kumar Singh & Ors. Vs. Amit Kumar Chamariya & Anr. reported at (2019) 10 SCC 660 and the decision of the Hon'ble Supreme Court in the case of Nasiruddin & Ors. Vs. Sitaram Agarwal reported at (2003) 2 SCC 577 has held that recourse to Section 5 of the Limitation Act cannot be resorted to for filing an application under Section 7(1) of the 1997 Act but the tenant has to deposit admitted arrears of rent. It is not in dispute that the application under Section 7(1) and Section 7 (2) of the 1997 Act was filed beyond the prescribed period of limitation. The learned trial judge also took note of the decisions of the Hon'ble Supreme Court in the case of Bijoy Kumar Singh (supra) and rejected the applications under Section 7(1) and Section 7(2) of the 1997 Act.

This Court does not find any infirmity in the said decision warranting interference under Article 227 of the Constitution of India.

Accordingly, C.O. 3681 of 2024 stands dismissed.

There shall be, however, no order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Hiranmay Bhattacharyya, J.)