

Item No. 17
17.11.2025
Court. No. 6
GB

C.O. 3890 of 2025

Tanushree Chatterjee & Anr.
Vs.
Pradip Chandra Chandra & Ors.

Mr. Somnath Gangopadhyay

...for the Petitioners.

1. The petitioners are aggrieved by an order dated July 24, 2025, passed by the learned Judge, 13th Bench, City Civil Court at Calcutta in Title Suit No.713 of 2003.
2. By the order impugned, the learned court rejected an application under Order 7 Rule 11 of the Code of Civil Procedure. The said application under Order 7 Rule 11 of the Code of Civil Procedure was filed almost after 21 years from the filing of the suit.
3. It appears that the defendant nos. 1(a) and 1(b) took 19 years to file their written statement. The contention of the defendants was that the suit was barred by the law of limitation, inasmuch as, the plaintiff's cause of action arose on July 1, 1999 after expiry of the lease and the said application ought to have been filed within 3 years from the date of expiry of the lease.
4. The learned court was of the view that the suit did not appear to be barred by limitation and the residuary article, that is, Article 137 of the Limitation Act, 1963 shall not apply in the instant case, instead Article 65 would be applicable. The plaintiff filed the suit for recovery of possession from the defendants, who were allegedly continuing to unauthorizedly occupy the

premises, upon expiry of the lease. The lease was for a period of 80 years. Further allegation was that the lease rent was not being paid from 1978. By a notice dated January 15, 2003, the defendants were asked to vacate the premises, but by a letter dated January 31, 2003, the defendants denied such request.

5. According to the plaintiff, the defendants were in illegal and wrongful possession of the premise after expiry of the lease. Hence, the suit had been filed for recovery of khas possession from the defendants who were allegedly staying in the property even after expiry of the lease as trespassers.
6. In my opinion, this is not a case for rejection of the plaint. The learned court did not err in refusing to reject the plaint. The issue of limitation is a mixed question of law and fact as rightly held by the learned Trial Judge. However, all observations made by the learned court and by this Court shall be treated as tentative and all issues will be decided in accordance with law, including the point of limitation, as already discussed by the court.
7. Accordingly, the revisional application is disposed of.
8. Parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)