

26.11.2025
Ct. No. 06
Sl. No.2
skg

C.O. No. 3913 of 2025

Smt. Sathi Roy
Vs.
Dhiren Kumar Chatterjee

Mr. Sanjib Seth,
Ms. Soumi Chakraborty,
.....for the petitioner

Mr.Amitava Paine,
Mr. Partha Pratim Mukhopadhyay,
Mr. Vivek Kumar Tripathi,
...for the respondent

1. The petitioner has challenged the order dated 13th August, 2025 passed by the learned Civil Judge (Jr. Div.) 3rd Court, Howrah in Title Suit no. 697 of 2019.
2. The opposite party as plaintiff filed the suit for eviction and mesne profit against the petitioner before the learned Civil Judge (Jr. Div.), 3rd Court, Howrah in Title Suit no. 697 of 2019.
3. According to the plaintiff, late Gobinda Roy was the original tenant in respect of the suit property. The plaintiff purchased the suit property when Gobinda Roy was already the tenant. Gobinda Roy died in October, 2013. The specific case of the plaintiff was that the heirs of the deceased tenant could not continue with the tenancy beyond a period of 5 years from the date of the death of the original tenant.

4. It is submitted that the widow and the son of the deceased tenant also passed away and the petitioner is the daughter-in-law who does not have any right to continue with the suit premises by operation of Section 2(g) that the West Bengal Premises Tenancy Act, 1997.
5. On such averments, the suit was filed for eviction of the petitioner, treating the petitioner to be an unauthorized occupant and/or trespasser. The said suit was filed in 2019 after the expiry of the five years from the death of the original tenant.
6. Mr. Seth, learned advocate for the defendant/petitioner submits that Gobinda Roy had entered into a partnership business with one Bikas Karar. The petitioner runs the business with Bikas Karar from the suit property. The petitioner and Bikas Karar, as partners, would the right to continue in the property.
7. Mr. Seth disputes the right of the plaintiff to seek eviction of the petitioner. Under such circumstances the petitioner disputed the relationship of landlord and tenant. It is submitted that unless a notice of eviction was served upon Mr. Bikas Karar, the suit for eviction was not maintainable. The petitioner, accordingly, filed an application under Section 7(2) of the West Bengal Premises Tenancy Act for determining the arrear rent and the relationship of landlord and tenant. The

learned court held that the petitioner was not a tenant, but a trespasser by an operation of 2(g) of the West Bengal Premises Tenancy Act. However, the learned court also struck out the defence. If the court's view was that the petitioner was a trespasser and the application under Section 7(2) of the West Bengal Premises Tenancy Act, was not maintainable, the said application was rightly rejected.

8. The question of applying the provisions of Section 7(3) of the West Bengal Premises Tenancy Act, in such a situation did not arise. The petitioner called upon the court to determine the relationship of landlord and tenant by invoking the provisions of section 7(2) of the West Bengal Premises Tenancy Act, 1997. The suit is for eviction of a trespasser/unauthorized occupant. The court rejected the application under section 7(2) of the WBPT Act, inter alia, holding that the petitioner is not a tenant. However, if the petitioner is not a tenant under the opposite party, the question of striking out the defence under section 7(3) of the WBPT Act, does not arise. The said section is not applicable. The plaintiff will have to prove his positive case that by operation of Section 2(g) of the Premises Tenancy Act, 1997, the petitioner had become a trespasser.

9. The order impugned is modified to the extent that the defence of the tenant shall not be struck out and the finding of the learned court will be treated as tentative.
10. The revisional application is disposed of.
11. There shall be no order as to costs.
12. Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)