

28.11.2025
Ct. No. 06
Sl. No.4
skg

CO 3976 of 2025

Subhas Chandra Bose & Ors.
Vs.
Smt. Subhra Chowdhury

Mr. Animesh Paul,
Ms. Kriti Keshri,

.....for the petitioners

1. The petitioner is aggrieved by the order dated July 23, 2025 passed by the learned Civil Judge (Jr. Div.), 3rd Court at Howrah in Title Suit No. 761 of 2021.
2. By the order impugned the learned court allowed the application for striking out the defence of the petitioners and disposed of the application under Section 7(3) of the West Bengal Premises Tenancy Act, 1997.
3. Mr. Animesh Paul, learned advocate for the petitioner/tenants submits that by the order dated May 18, 2023 the defendant was directed to pay arrear rent in two instalments i.e. the first instalment was directed to be paid within 15 days from the date of passing of the order and the second instalment was directed to be paid within 60 days from the passing of the order. The court fixed 19th June, 2023 as the date for payment of the first instalment. Thereafter, the

court continued to extend the time for deposit of the first instalment on various occasions.

4. It is submitted that, once the court permitted extension of time on various occasions, the defendant/tenant cannot be faulted.
5. It appears from the record that, at least on three occasions the payment of the first instalment was permitted, although extended from time to time. Ultimately, the first instalment was paid in December 2, 2023 i.e. after 6-7 months from the date of the order. It appears that on February 2, 2023, the defendant paid arrear rent from May 2023 to November 2023 which was non-compliance of the provision of Section 7(1)(c) of the said Act. Further, by order dated December 5, 2023, the court recorded that the defendant was at liberty to deposit the instalment but at his own risk. It also appears that there were no orders extending the time to deposit the 2nd instalment. The defendant definitely is in default in payment of arrears as determined under Section 7(2) of the said Act by the learned Court. The defendant failed to deposit the rent within the extended time. Thus, the contention of Mr. Paul that, the first instalment was deposited within the time extended by the court, even if can be accepted, there are other defaults which were not condoned by the court.

6. Moreover, in the order dated December 5, 2023, the court records that the deposit of the arrears was at the risk of the petitioner. By then, the plaintiff had already filed an application under Section 7(3) of the said Act for striking out the defence. The proviso to Section 7(2) does not come to the aid of the petitioner. The court can extend the time to deposit the amount determined under section 7(2) of the said Act, only once and that too for two months.
7. Under such circumstances, the mandate of the law under section 7 of the said Act, requiring the petitioner to deposit the arrears rent and current rent month by month, has not been followed. Payment of current rent under section 7(1)(c) had also not been made as per the said provision. In this case, the petitioner is not only a defaulter in payment of arrear rent. The payment of second instalment of the arrear was made beyond the period, without any extension by the court. The current rent was not paid month by month, but the current rent was clubbed together from May 2023 to November 2023 and deposited without any permission of the court. In any event, the court did not have authority under the law to permit such delayed deposit, except in terms of the proviso to Section 7(2).
8. Section 7 of The West Bengal Premises Tenancy Act, 1997 is quoted below:-

“7. When a tenant can get the benefit of protection against eviction.-

(1) (a) On a [suit] being instituted by the landlord for eviction on any of the grounds referred to in section 6, the tenant shall, subject to the provisions of sub-section (2) of this section, pay to the landlord or deposit with [the Civil Judge] all arrears of rent, calculated at the rate at which it was last paid and up to the end of the month previous to that in which the payment is made together with interest at the rate of ten per cent per annum.

(b) Such payment or deposit shall be made within one month of the service of summons on the tenant or, where he appears in the [suit] without the summons being served upon him, within one month of his appearance.

(c) The tenant shall thereafter continue to pay to the landlord or deposit with [the Civil Judge] month by month by the 15th of each succeeding month, a sum equivalent to the rent at that rate.

(2) If in any [suit] referred to in sub-section (1), there is any dispute as to the amount of the rent payable by the tenant, the tenant shall, within the time specified in that sub-section, deposit with [the Civil Judge] the amount admitted by him to be due from him together with an application for determination of the rent payable. No such deposit shall be accepted unless it is accompanied by an application for determination of the rent payable. On receipt of the application, [the Civil Judge] shall, having regard to the rate at which rent was last paid and the period for which default may have been made by the tenant, make, as soon as possible within a period not exceeding one year, an order specifying the amount, if any, due from the tenant and, thereupon, the tenant shall, within one month of the date of such

order, pay to the landlord the amount so specified in the order:

Provided that having regard to the circumstances of the case, an extension of time may be granted by [the Civil Judge] only once and the period of such extension shall not exceed two months.

(3) If the tenant fails to deposit or pay any amount referred to in subsection (1) or sub-section (2) within the time specified therein or within such extended time as may be granted, [the Civil Judge] shall order the defence against delivery of possession to be struck out and shall proceed with the hearing of the [suit].

(4) If the tenant makes deposit or payment as required by subsection (1) or sub-section (2), no order for delivery of possession of the premises to the landlord on the ground of default in payment of rent by the tenant, shall be made by [the Civil Judge], but he may allow such cost as he may deem fit to the landlord:

Provided that the tenant shall not be entitled to any relief under this sub-section if, having obtained such relief once in respect of the premises, he again makes default in payment of rent for four months within a period of twelve months or for three successive rental periods where rent is not payable monthly.”

9. The law provides that irrespective of the ground for eviction, the tenant has to mandatorily comply with all the above provisions within the time limits inbuilt in the statute, or else, the defence will be struck off by operation of law. The relevant paragraphs in the decision of **Seventh Day Adventist Senior Secondary School Vs. Ismat Ahmed & Ors.** reported in **2025 INSC 984** are quoted below :-

“12. Bare reading of the aforesaid provisions makes it clear that as per sub section (1) of Section 7, in a suit for eviction filed by the landlord on any grounds as specified in Section 6 of the WBPT Act, the tenant shall, subject to provisions of sub-section (2), pay to the landlord or deposit in the Court, all arrears of rent calculated at the rate at which it was last paid together with interest at the rate of ten per cent per annum. As mandated by Section 7(1)(b), the said payment or deposit shall be made within one month from the date of service of the summons on tenant or from the date of appearance in case the tenant appears without service of summons. The said two provisions apply in a case where arrears of rent are admitted. Thereafter, Section 7(1)(c) puts a further condition that after the admitted arrears are paid, the tenant shall continue to pay or deposit with the landlord or Civil Judge, as the case may be, a monthly sum of rent at that rate on or before fifteenth day of consecutive month.

15. On receiving such application, the Court having regard to the rate of rent last paid and period of which default has been made by the tenant shall make an order on such application not later than one year and thereupon the tenant shall within the period of one month of the date of such order, pay to the landlord the amount so specified in the order. That is to say, the determination of the rent on the parameters as specified in the latter part of sub-section (2) and on such determination within one month of the date of the order, the amount as specified in the order is to be paid. The proviso thereto deals with the extension of time, which can only be once and not beyond period of two months.

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17. In view of the foregoing, while bringing the said Section, the legislative intent was to provide protection to the tenant against eviction, subject to compliance of deposit of arrears of rent if there is no dispute as to amount of rent, within one month from the date of service of summons, along with interest at the rate of ten per cent per annum. The tenant is further required to deposit the regular rent as prescribed in Section 7(1)(c). In case, there is a dispute of the amount of rent payable, the tenant is required to deposit the amount due as admitted by him within thirty days and file an application conjointly for determination of rent within the same period. The said application may possibly be entertained and decided by the Court thereafter only. This Court in the case of Bijay

Kumar (supra) had an occasion to consider the scope of Section 7(2) of the WBPT Act wherein the tenant had not deposited or paid the admitted rent while moving an application seeking determination of rent. Trial Court while allowing such application granted time to pay the admitted rent, but High Court set-aside the order of the Trial Court. While confirming the order of the High Court on the issue of deposit of rent admitted by tenant under Section 7(2) on the application for determination of rent, this Court observed as under – “21. ...the deposit of rent along with an application for determination of dispute is a precondition to avoid eviction on the ground of non-payment of arrears of rent. In view thereof, tenant will not be able to take recourse to Section 5 of the Limitation Act as it is not an application alone which is required to be filed by the tenant but the tenant has to deposit admitted arrears of rent as well”

10. The revisional application is accordingly disposed of.

There shall be no order as to costs.

11. Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)