

Item No. 26
24.11.2025
Court. No. 6
GB

C.O. 4012 of 2025

Dulal Saha
Vs.
Prativa Kantha & Ors.

*Mr. Satyam Mukherjee,
Mr. Jakir Sardar,
Mr. Purnendu Shekhar Ghosh,
Mr. Saibal Rakshit*

...for the Petitioner.

1. By the order impugned, the learned court rejected the applications under Sections 7(1) and 7(2) of the West Bengal Premises Tenancy Act, 1997 (hereinafter referred to as the 'said Act') and struck out the defence of the petitioner/tenant on the ground that some of the deposits to be made under Section 7(1)(c) of the said Act were beyond time, and thus, invalid deposits.
2. Section 7 of the said Act 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 upto 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 subsection, 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 sub-section (1) or subsection (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]."

3. According to the learned court, clubbing of the rent was neither valid nor proper. Section 7 (1) (c) provides that the tenant shall continue to pay to the landlord or deposit with the Civil Judge, month by month, by 15th of each succeeding month, a sum equivalent to the rent at the rate last paid.
4. In this case, although the petitioner's application under Section 7(1) and 7(2) of the said Act was directed to be reheard by the court on the ground that there was no delay in filing the same, but the petitioner admits that there was non-compliance of Section 7(1) (c) of the said Act. The petitioner relies on the decision of this Court in the matter of **Smt.**

Binika Thapa (nee Rai) & Anr. Versus Smt. Damber Kumari Mukhia & Anr. passed in C.O. No.64 of 2023. In the said decision, the Division Bench held that if for any reason the tenant failed to pay or deposit rent as contemplated under Section 7 of the said Act, as directed by the court, then the tenant gets a further extension of time, but only once, for two months to make such deposit. The reference to such provision is not accepted in view of the fact that, the proviso to Section 7(2) permits extension of time only once, upon determination under Section 7(2). Here admittedly, the tenant has failed to pay the rent within 15th of the succeeding month on some of the occasions, and clubbed the rents by depositing the same belatedly. As such, the learned trial judge had no other option, but to declare such deposits to be invalid deposits upon rehearing the application under Sections 7(1) and 7(2) and held that the scope of extension of time to deposit such rent on multiple occasions, did not arise. Striking off the defence is the natural consequence to non-compliance of Sections 7 (1) and 7 (2) the rejection of the applications. The compliance of Section 7(1)(a)(b) and (c) are simultaneous. The applications were rejected in view of the fact that Section 7(1)(c) had not been complied with. The petitioner failed to deposit the rent month by month within 15th of the succeeding month which is also a mandatory compliance. The tenant is statutorily

required to ensure such compliance in order to defend the eviction suit.

5. The learned trial court observed as follows:-

“In order to ascertain whether the rent has been deposited in the manner laid down by the provision of law, the challans have to be perused. On perusal of the challans, it appears that the defendant clubbed the rents of two or more months and deposited the same in the Court by way of civil deposit challans. The following tabular chart reflects the deposits of rent that were clubbed together with two months or more :

Clubbed Rent for the months of	Date on which deposit made
October and November, 2023	13.10.2023
October and November, 2024	18.11.2024
July and August, 2025	28.08.2025

* * *
* * *

Needless to mention that Section 17 of the West Bengal Premises Tenancy Act, 1956 is in pari materia with Section 7 of the WBPT Act, 1997. Thus, in the light of the above discussed provision of law and the decision herein referred to, it can be said that the deposit of rent so made by clubbing of rents is neither valid or proper in accordance with law. In the light of the above discussion, it can be said that the defendant failed to comply with the provision laid down under Section 7 of WBPT Act, 1997.

On further perusal of the challans, it appears that some of the challans were filed after the 15 of the succeeding month, which is not in accordance with the provisions laid down under Section 7(1)(c) of WBPT Act. The following tabular chart reflects the rents that deposited after the 15th of the succeeding month:-

Rent for the months of	Date on which deposit made
December, 2024	18.01.2025
January, 2025	27.02.2025
February, 2025	17.03.2025
April, 2025	16.05.2025
May, 2025	17.06.2025

It is apposite to mention here that the defendant appeared in the suit on 14.11.2022 and filed the instant applications on 07.12.2022. Prior to that the defendant was depositing rent before the rent controller. But some of the challans for the months of March 2016, April 2016, May 2016, June 2016, July 2016 and August 2016

were filed in the Court as civil deposit. These deposits are bad in law. Further, it appears that since 2015, the defendant was depositing rent before the Rent Controller and the arrear rent deposited in Court relate to months for which the defendant failed to deposit rent before the Rent Controller. It is further pertinent to mention here that the challan for the month of November 2022 reflect that the rent was deposited in the Rent Control on 14.11.2022 although the defendant appeared in the Court on 14.11.2022.”

6. In the decision of *Seventh Day Adventist Senior Secondary School Vs. Ismat Ahmed & Ors.*

reported in **2025 INSC 984**, the Hon’ble Apex Court held as follows:-

“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.

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.”

7. In the decision of ***Kabita Biswas and Ors. v. Sadhan Dasgupta***, reported in **2024 SCC OnLine Cal 1456**, this Court held as follows:-

“19. On a plain reading of entire section 7 of the Act of 1997 it is clear that there is no scope for the learned court to extend the time for the payment of the current monthly rent beyond the period of the 15th day of each succeeding month as stipulated in section 7(1)(c) of the Act of 1997. It is only the proviso to section 7(2) of the Act which confers power to the civil judge to extend the time for deposit of the rent as directed under section 7(2) of the Act that too for a period not exceeding two months. When the word ‘shall’ is used both in section 7(1) and 7(2), there is no scope to give different meaning for the said two provisions. The word ‘shall’ appearing in the second part of sub-section (2) of section 7 is imperative and as such the same word “shall” when appearing in sub-section (1) of section 7 of the Act of 1997, it also must be given an imperative meaning.

20. This court in *Omprakash Thakur v. Bhola Shaw*, 2018 ICC 37 held in para 9 as follows:—

“Following the decision of the Supreme Court in the case of Nasiruddin (supra) and Subrata Mukherjee (supra), this court, in the case of Bina Devi Binani held that the word ‘shall’ used in section 7(3) of the Act of 1997 is imperative striking out of defence of the defendant-tenant takes place by operation of law. Even in an unreported decision dated December 15, 2016 passed in C.O. 3971 of 2016 (Jaladeb Guchait @ Jaladev Guchait v. Sankar Kumar Das) this court once again held that from a reading of the provisions of section 7 and the sub-sections thereunder, it is clear that it is only as per the proviso to section 7(2) of the Act of 1997 the court has the power to extend the time for payment of the arrear rent, adjudicated by it, only once but the Court has not power to extend the time for deposit of the current rent month by month by the 15th of each succeeding month under Section 7(1)(c) of the Act of 1997. Therefore, the learned Court below had no jurisdiction to exercise any discretion to extend the time to deposit the defaulted rent by the opposite party.”

21. In *Jaladeb Guchait @ Jaladev Guchait v. Sankar Kumar Das*, C.O. 3971 of 2016 this court was also of the view that it is only as per the provision of section 7(2) of the Act the court has the power to extend the time for payment of the arrear rent adjudicated by it once and court has no power to extend the time

for deposit of current rent month by month by the 15th of each succeeding month under section 7(1)(c) of the Act and the words “or within such extended time as may be granted” appearing in section 7(3) relates to section 7(2) and the proviso thereto.

22. In *Sourav Das v. Kartick Dutta*, (2019) 3 ICC 757 this court observed as follows:—

“27. It is evident from the scheme of Section 7 of the 1997 Act, that sub-section (1) contains no such proviso as accompanies sub-section (2). Therefore, in the event a tenant fails to avail of the proviso within the stipulated time, it will be deemed that, having chosen an adjudication under section 7(2), there is no further scope for extension of time to deposit even the current rent-equivalent.

28. once section 7(1) is waived by invoking section 7(2), and the outer time limit for extension of time under the proviso to the latter provision has expired, the tenant cannot be permitted to fall back upon sub-section (1) and seek the benefit of Subrata Mukherjee (supra) by asking for a further extension, thereby defeating the entire scheme of the proviso to sub-section (2).

29. In such view of the matter, even if the default was in respect of a subsequent current deposit and not arrears strictly in terms of sub-section (2) of section 7, having chosen to give a go-by to sub-section (1) and invoke sub-section (2) and having availed of the benefit of sub-section (2), the defendants/opposite parties could not invoke section 5 of the Limitation Act afresh, thereby seeking a lease of life specifically prohibited by statute. Giving such an opportunity would frustrate the scheme of the statute and tantamount to the tenant being given a relief indirectly, which she/he could not get directly in law.”

23. Since it is the consistent view as reflected in various judgments passed by this Court that the Court has no power to extend time for deposit of the current rent month by month by the 15th of each succeeding month under section 7(1)(c) of the Act of 1997 and since the court below has no jurisdiction to exercise any discretion to extend the time to deposit the current rent within the stipulated period by the tenant/opposite party, I have no reason to interfere with the order impugned, which is neither arbitrary nor illegal nor is such where

court below can be said to have passed order exceeding his jurisdiction.”

8. Accordingly, the application is dismissed.
9. Parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)