

24.06.2025
Item no. 28.
Court No.6.
AB

C. O. 4398 of 2024

**Tapas Paul
Vs
Mamata Khutia**

Mr. Chinmoy Pal,
Mr. Archan Dutta,
Mrs. Arpita Palit
Mr. S. G. Wasimfor the Petitioner.

Mr. Arnab Roy,
Mr. P. S. Ghosh,
Mr. Saibal Rakshitfor the Opp. Party.

Affidavit of service filed in Court today be taken
on record.

This application under Article 227 of the
Constitution of India is at the instance of the
defendant and is directed against an order dated
September 4, 2024, passed by the learned Civil Judge
(Junior Division), 1st Court, Sealdah in Ejectment Suit
No.66 of 2008 (5340/2014).

By the order impugned, the prayer for
adjournment of the petitioner was rejected and
consequently, the application under Section 7(2) of the
West Bengal Premises Tenancy Act, 1997 also stood
rejected.

Heard Mr. Pal, learned advocate for the
petitioner and Mr. Roy, learned advocate appearing for
the opposite party.

After going through the order impugned, this Court finds that September 4, 2024 was fixed for hearing of the application under Section 7(2) of the 1997 Act. On that date, the petitioner herein prayed for an adjournment. Such prayer for adjournment was rejected only on the ground that no document in support of the illness was produced.

This Court finds that September 4, 2024 was fixed for hearing of the application under Section 7(2) of the 1997 Act as “last chance”.

Section 7 of the West Bengal Premises Tenancy Act obliges the tenant to comply with the requirements as specified in that Section in order to get the benefit of protection against eviction.

Section 7(2) states that if an application under Section 7(2) is filed, the learned Civil Judge is under a statutory obligation to adjudicate the dispute raised having regard to the rate at which the rent was last paid and the period for which the 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.

Section 7(3) states that if the tenant fails to deposit or pay any amount referred to in Sub-section

(1) or Sub-section (2) within the time specified therein or within such extended time as may be granted, the defence against delivery of possession be struck off.

Failure to comply with the requirement under Sections 7(1) and 7(2) of the 1997 Act would result in serious consequences as Section 7(3) would stand attracted.

Since the application under Section 7(2) has been filed, the Court is obliged to decide the dispute raised and adjudicate whether any amount is payable by the tenant.

For such reason, this Court is of the considered view that an application under Section 7(2) of the 1997 Act is to be decided on its own merits.

Adjournment was prayed for on the ground of illness of the defendant as submitted by the learned advocate. This Court is, therefore, of the considered view that a last opportunity should be granted to the petitioner to move the application under Section 7(2) of the 1997 Act.

For such reason, the impugned order is set aside. The application under Section 7(2) of the 1997 Act is restored to the file of the learned Trial Judge.

Learned Advocates for the respective parties submit that the application is otherwise ready for hearing.

In the light of the submissions made by the learned advocates for the respective parties, C. O. No. 4398 of 2024 stands disposed of by requesting the learned Civil Judge (Jr. Division), 1st Court, Sealdah to take up the hearing of the application under Section 7(2) of the 1997 Act on the next date fixed and to make an endeavour to dispose of the same as expeditiously as possible but preferably within a period of 12 weeks from the next date fixed without granting any unnecessary adjournment to either of the parties.

(Hiranmay Bhattacharyya, J.)