

04.02.2026
SL No.71
Court No.6
(gc)

CO 461 of 2025

**Sushanta Chandra alias
Sushanta Kumar Chandra & Ors.
Vs.
Smt. Renuka Chandra & Ors.**

Mr. Rwitendra Banerjee,
Mr. Shibasis Chatterjee

.....for the Petitioners.

Mr. Rajdeep Bhattacharya,
Mr. Arkadipta Sengupta

...for the Opposite Parties.

1. Heard Mr. Banerjee, learned Advocate for the petitioners and Mr. Bhattacharya, learned Advocate for the opposite party.
2. The petitioners are aggrieved by an order dated December 19, 2024 passed by the learned Civil Judge (Junior Division), 2nd Court, Berhampur, Murshidabad in Other Suit No.107 of 1997. By the order impugned, the learned Court rejected an application under Section 17(2) of the West Bengal Premises Tenancy Act. The Court was of the view that although default was admitted in the evidence adduced by the petitioners from the month of 'Ashar' 1995 and although it was further admitted that the RC cases were withdrawn when the landlord transferred the suit property, no application had been filed under Section 17(1) of the West Bengal Premises Tenancy Act, 1956

along with the prayer for deposit of the admitted rent. The petitioners filed an application for deposit of arrear rent from Bengali Month of Agrahayan, 1403 BS to Kartick 1431 BS along with a prayer for fixation of rent, determination of the relationship and the extent of the tenancy, without filing any application for condonation of delay or even without explaining the reasons for the delay of so many years before making a prayer for payment of arrear rent. The petitioners straightway filed an application under Section 17(2), despite there being admitted arrears without availing of the provisions of Section 17(1).

3. Section 17(1) and 17(2) of the West Bengal Premises Tenancy Act, 1956 are hereby quoted below:-

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

(1)On a suit or proceeding being instituted by the landlord on any of the grounds referred to in section 13, the tenant [shall, subject to the provisions of sub-section (2), within one month] of the service of the writ of summons on him, [or where he appears in the suit or proceeding without the writ of summons being served on him, within one month of his appearance] [deposit in Court or with the Controller or pay to the landlord] an amount calculated at the rate of rent at which it was last paid, for the period for which the tenant may have made default including the period subsequent thereto up to the end of the month previous to that in which the deposit or payment is made together with interest on such amount calculated at the rate of eight and one-third per cent, per annum from the date when any such amount was payable up to the date of deposit, and shall thereafter continue to deposit or pay, month by month, by the 15th of each

succeeding month a sum equivalent to the rent at that rate.

[\(2\)](#) [If in any suit or proceeding referred to in sub-section (1) there is any dispute as to the amount of rent payable by the tenant, the tenant shall, within the time specified in sub-section (1), deposit in court the amount admitted by him to be due from him together with an application to the court 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 such application, the court shall –

[\(a\)](#) 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, a preliminary order, pending final decision of the dispute, specifying the amount, if any, due from the tenant and thereupon the tenant shall, within one month of the date of such preliminary order, deposit in court or pay to the landlord the amount so specified in the preliminary order; and

[\(b\)](#) having regard to the provisions of this Act, make, as soon after the preliminary order as possible, a final order determining the rate of rent and the amount to be deposited in court or paid to the landlord and either fixing the time within which the amount shall be deposited or paid or, as the case may be, directing that the amount already deposited or paid be adjusted in such manner and within such time as may be specified in the order.]

[\(2A\)](#) [Notwithstanding anything contained in sub-section (1) or sub-section (2), on the application of the tenant, the Court may, by order, -

[\(a\)](#) extend the time specified in sub-section (1) or sub-section (2) for the deposit or payment of any amount referred to therein;

[\(b\)](#) having regard to the circumstances of the tenant as also of the landlord and the total sum inclusive of interest required to be deposited or paid under sub-section (1) on account of default in the payment of rent, permit the tenant to deposit or pay such sum in such instalments and by such dates as the Court may fix :

Provided that where payment is permitted by instalments such sum shall include all amounts calculated at the rate of rent for the period of default including the period subsequent thereto up

to the end of the month previous to that in which the order under this sub-section is to be made with interest on any such amount calculated at the rate specified in sub-section (1) from the date when such amount was payable up to the date of such order.]

[\(2B\)](#)[No application for extension of time for the deposit or payment of any amount under clause (a) of sub-section (2A) shall be entertained unless it is made before the expiry of the time specified therefor in sub-section (1) or sub-section (2), and no application for permission to pay in instalment under clause (b) of sub-section (2A) shall be entertained unless it is made before the expiry of the time specified in sub-section (1) for the deposit or payment of the amount due on account of default in the payment of rent.]”

4. In fact, the application under Section 17(2) only deals with a prayer for adjudication of the relationship between the parties and for determination of the extent of the tenanted portion. However, this Court finds that once the petitioners admitted the arrears, it was the duty of the petitioners to comply with the provisions of Section 17(1) which is *pari materia* with Section 7(1) of the West Bengal Premises Tenancy Act, 1997. However, the petitioners had an opportunity to avail of the provisions of Section 17(2A) which the petitioners failed to do. Moreover, it appears that Section 17(2B) would be a total bar on the petitioners to apply at a belated stage for extension of time for compliance of the provisions of Section 17(1) and 17(2).
5. Under such circumstances, the Court did not commit any irregularity in rejecting the application.

6. Accordingly, the revisional application is dismissed.
7. The consequence of dismissal of the application under Section 17(2) was striking out of the defence which has been done by the learned Court. However, the petitioners will have a right to cross-examine the plaintiffs' witnesses in order to demolish the plaintiffs' case through such cross-examination.
8. The learned Court is requested to expedite the suit and dispose of the same within one year from date.
9. There shall be no order as to costs.
10. Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)