

27.02.2026
Ct. No. 06
Item 07
Cp

C.O. 725 of 2025

Kabindra Nath Bose
Vs.
Ritendra Roy

Mr. Gopal Ch. Ghosh
Mr. Rajkrishna Mondal

.....for the petitioner.

Mr. Debasish Roy
Mr. S. Sengupta
Mr. Saurav Roy

.....for the opposite party.

The petitioner is aggrieved by the order dated September 30, 2024, passed by the learned Civil Judge (Junior Division), 2nd Court, Alipore, in Ejectment Suit No.76 of 2018. By the order impugned, the applications under Sections 7(1) and 7(2) of the West Bengal Premises Tenancy Act, 1997 (hereinafter referred to as 'the said Act'), were dismissed, upon applying the ratio of Bijay Kumar Singh vs. Amit Kumar Chamaria, reported in AIR 2019 SC 5461.

Mr. Ghosh, learned senior advocate for the petitioner, submits that the order impugned is confusing. The court on the one hand held that there were no admitted arrears as per the averments made in the applications but, on the other hand applied the ratio of Bijay Kumar Singh (supra) and rejected the application.

According to the court, the suit was decreed *ex parte* and was restored on consent of the parties, but even, thereafter, the tenant failed to take steps and as such, the applications were held to be not maintainable.

Mr. Ghosh points to the averments made in the applications and submits that even after the filing of the suit, the rents were being paid upto 2020. He further submits that there are no admitted arrears of rent and the court was requested to determine the admitted arrears, if any.

Learned advocate for the plaintiff/opposite party, submits that the averments in the application under Section 7(2) of the said Act, especially paragraph 5, thereof indicate that there are admitted arrears. It is not necessary for the tenant to admit arrears in a particular form and manner. If there are averments made in the applications which show non-payment of rent, it can be gathered from such averments that there were arrears of rent.

I have gone through the order impugned. The conclusion which the court arrived at appears to be confusing and the order lacks clarity. Under such circumstances, the applications under Section 7(1) and 7(2) of the said Act should be heard out afresh, by applying the ratio of *Bijay Kumar Singh (supra)*, and the decision in the matter of *Seventh Day Adventist Senior Secondary School Vs. Ismat Ahmed &Ors.* reported in *2025 INSC 984*, as also the provisions of law, to come to a

conclusion as to whether the tenant had complied with the mandatory provisions of Section 7(1) and 7(2) of the said Act.

The order impugned is set aside. The learned Court is directed to hear the applications afresh and pass necessary orders.

The revisional application is accordingly disposed of. There shall be no order as to costs.

The learned court is requested to expedite the proceeding considering the averments in the applications.

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

(Shampa Sarkar, J.)