

11.03.2026
Item No.05 (DL)
Court No.06
AJ.

**IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION**

C.O. 762 of 2026

Kamal Mehra & Anr.

-Vs-

Sujoy Kumar Dey

Mr. Subhendu Bhattacharjee,
Ms. Seuli Banerjee.
....for the petitioners.

Mr. Dipranjan Mukhopadhyay,
Mr. Souvik Ghosh.
.....for the opposite parties.

1. This revisional application is directed against an order dated January 16, 2026 passed by the learned Civil Judge (Junior Division), 4th Court at Alipore, South 24-Parganas in Ejectment Suit No. 226 of 2019 whereby the petitioners' defence has been struck out by allowing the opposite party's application under Section 7(3) of the West Bengal Premises Tenancy Act, 1997 (hereafter 'the said Act of 1997').

2. Learned Advocate appearing for the petitioner submits that the order impugned suffers from serious error while the learned Advocate for the opposite party submits that the order impugned calls for no interference.

3. Records before this Court reveal that by an order dated September 06, 2024 the learned Trial Court had rejected the petitioners' application under Section 7(1) and 7(2) of the said Act of 1997 filed along with a petition under Section 5 of the

Limitation Act. Such order was assailed before this Court by filing C.O. 3681 of 2024. The said civil revisional application was dismissed by an order dated August 04, 2025.

4. In such view of the matter, once the petitioners have been found to have failed to comply with the mandatory conditions of Section 7(1) and 7(2) of the said Act of 1997, the learned Trial Court cannot be faulted for having allowed the opposite party's application under Section 7(3) of the said Act of 1997 by striking out of the petitioners' defence.

5. It is needless to mention that despite their defence being struck out, the petitioners shall be entitled to cross-examine the plaintiff-opposite party and also to participate in the arguments, in accordance with law laid down by the Hon'ble Supreme Court in the case of **Modula India -Vs- Kamakshya Singh Deo** reported in **1988(4) SCC 619**.

6. Since there is no illegality or material irregularity in the order dated January 16, 2026, this Court finds no reason to interfere with the same.

7. C.O. 762 of 2026 stands dismissed. No Costs.

8. Urgent photostat certified copy of this order, if applied for, be supplied to the parties

subject to compliance with all requisite formalities.

(Om Narayan Rai, J.)