

D/L 15
20.05.2026
Rohit,A.R.(Ct.)
ct.no.6

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

CO 1147 of 2026

**Samar Manna & Ors.
Versus
Shanti Kundu & Ors.**

Mr. Pinaki Ranjan Mitra

...for the Petitioners

Mr. Sanjib Seth

...for the Opposite Party Nos. 1 & 3

1. This revisional application is directed against an order dated February 20, 2026 passed by the learned Civil Judge (Junior Division), 3rd Court, Howrah in Title Suit No. 1175 of 2020 whereby the petitioners application under Section 7(1) and 7(2) of the West Bengal Premises Tenancy Act, 1997 have been dismissed holding the same to be not maintainable.

2. The opposite parties have filed a suit for eviction of the petitioners, recovery of khas possession and for *mesne* profits. In the said suit, the petitioners filed applications under Section 7(1) and 7(2) of the West Bengal Premises Tenancy Act, 1997, which have been dismissed by the learned Trial Court by

observing that upon the death of the original tenant in March 23, 1978 and the death of the widow of the tenant on December 27, 2007 the other heirs of the original tenant were no longer authorized to continue at the suit property as tenants in terms of Section 2(g) of the 1997 Act unless a fresh tenancy agreement was executed with them.

3. The learned Trial Court has further observed that as the suit has been filed against the petitioners “*denying their status as tenants*”, therefore, there was no scope for application of the provisions of Section 7(1) and 7(2) of the 1997 Act.

4. Mr. Mitra, learned Advocate appearing for the petitioners submits that his only worry is that in the garb of the said suit, where the petitioners are not being allowed to file applications under Section 7(1) and 7(2) of the 1997 Act and to comply with the provisions thereof, the defence of the petitioners against delivery of possession may be struck out.

5. He submits that the tenor of the suit would indicate that the suit has been filed for eviction of a tenant.

6. Mr. Seth, learned Advocate appearing for the opposite parties vehemently contends that

the suit is not for eviction of a tenant but for eviction of trespasser inasmuch as, in terms of Section 2(g) of the 1997 Act, the petitioners cannot be said to be tenants in respect of the suit premises upon the death of the original tenant as well as the widow of the original tenant long time back.

7. Having heard the learned Advocates appearing for the respective parties and having considered the material on record this Court finds that the finding of the learned Trial Court is supported by the stand of the plaintiff/opposite party that the suit is not one for eviction of a tenant. In such view of the matter, the question of application of the provisions of Section 7(1), 7(2) and 7(3) of the 1997 Act does not arise.

8. Therefore, the order impugned does not require any interference.

9. CO 1147 of 2026 stands disposed of, with the above observations. There shall be no order as to costs.

10. Urgent certified website copy of this order, if applied for, be given to the parties upon compliance with all requisite formalities.

(Om Narayan Rai, J.)