

CO 1172 of 2026

Sri Saibal Kumar Bose @ Saibal Bose

vs.

Sri Arun Kumar Chakraborty & Ors.

16.04.26
DL-12
Ct-06
(Samar)

Mr. Biswajit Sau,

....for the Petitioner.

Mr. Arun Goswami,
Mr. Malay Bhattacharya,
Ms. Suparna Basu,
Mr. Snehan Ganguly,

....for the Opposite Parties.

1. This revisional application is directed against an order dated January 15, 2026 passed by the learned Civil Judge (Junior Division), 4th Court at Alipore in Ejectment Suit No. 160 of 2018 whereby the petitioner's application under Section 7(2) of the West Bengal Premises Tenancy Act, 1997 has been rejected and the petitioner's defence against delivery of possession has been struck out.
2. The opposite parties nos. 1 and 2 (hereafter the landlords-opposite parties) have instituted Ejectment Suit No. 160 of 2018 for eviction of the petitioner and the proforma opposite party no. 3 *inter alia* on the ground of default in payment of rent.
3. In the said suit, the petitioner filed an application under Section 7(2) of the 1997 Act, disputing the rate of rent. It is the petitioner's case that the petitioner has been depositing the current rent in

respect of the suit premises with the learned Trial Court since the institution of the suit and that prior thereto, the petitioner had deposited rent with the Rent Controller for a month. The petitioner has asserted that only one month's rent had to be deposited with the Rent Controller inasmuch as prior to such period the landlords had been receiving rent from the petitioner.

4. The petitioner's application under Section 7(2) of the 1997 Act has been rejected by the order impugned. Hence the revisional application.
5. Learned advocate appearing for the petitioner submits that the order impugned suffers from gross jurisdictional error inasmuch as the learned Trial Court has dismissed the petitioner's application on the sole ground that the same is not accompanied by an application under Section 7(1) of the 1997 Act.
6. Inviting the attention of this Court to the application under Section 7(2) of the 1997 Act, it is submitted that the petitioner had not committed any default in payment of rent to the landlords-opposite parties and as such there was no arrear of rent and the question of deposit of admitted arrears did not arise.
7. It is further submitted that since the petitioner has all along paid rent to the landlords-opposite parties, that the petitioner has deposited rent for the month

during which the landlords-opposite parties refused to accept the same with the Rent Controller and that the petitioner has thereafter been depositing the same with the learned Trial Court in the instant proceeding, therefore, there is no question of any default having been committed in deposit of current rent in terms of Section 7(1) of the 1997 Act.

8. It is submitted that in such view of the matter, the learned Trial Court could not have dismissed the petitioner's application under Section 7(2) of the 1997 Act and could not have struck out the petitioner's defence against delivery of possession.
9. Learned advocate appearing for the opposite parties submits that the petitioner has defaulted in both, making payment of rent to the landlords-opposite parties as well as in depositing the current rent in the learned Court and as such, the provisions of Section 7(1)(c) of the 1997 Act have clearly not been complied with by the petitioner.
10. Heard learned advocates appearing for the respective parties and considered the material on record.
11. Upon perusing the order impugned it appears that the same requires interference.
12. Although, the learned Trial Court has at one place held that the "*assertion of the defendants does not absolve them from the statutory obligation under clause (c) of Section 7(1) of the WBPT Act.*", yet, there

is no explanation as to how Section 7(1)(c) of the 1997 Act has been violated in the facts of the present case when it is the petitioner's assertion that there are no admitted arrears and the petitioner has been depositing current rent in the learned Court. There is no finding that the petitioner has committed default in paying or depositing current rent. In case, the learned Trial Court was of the opinion that the petitioner has been remiss in paying or depositing the current rent in terms of Section 7(1)(c) of the 1997 Act, it was incumbent on the learned Trial Court to indicate the same in the order impugned.

13. It further appears that the learned Trial Court has found that *"in absence of a appropriate application under Section 7(1) of the WBPT Act, the defendants deemed to have failed to comply with the statutory obligation stipulated u/s 7(1) of the WBPT Act."* Such conclusion of the learned Trial Court is not correct in the facts and circumstances of the present case. In such context the observations of the Hon'ble Supreme Court in paragraph 20 of the judgment in the case of ***Bijay Kumar Singh & Others vs. Amit Kumar Chamariya & Another*** reported at **(2019) 10 SCC 660** may be noted:-

20. *Therefore, sub-section (1) deals with the payment of arrears of rent when there is no dispute about the rate of rent or the period of arrears of rent. Sub-section (2) of Section 7 of the Act comes into play if there is dispute as to the amount of rent including the period of arrears payable by the tenant. In*

that situation, the tenant is obliged to apply within time as specified in sub-section (1) that is within one month of the receipt of summons or within one month of appearance before the court to deposit with the Civil Judge the amount admitted by him to be due. The tenant is also required to file an application for determination of the rent payable. Such deposit is not to be accepted, unless it is accompanied by an application for determination of rent payable. Therefore, sub-section (2) of Section 7 of the Act requires two things, deposit of arrears of rent at the rate admitted to be due by the tenant along with an application for determination of the rent payable. If the two conditions are satisfied then only the court having regard to the rate at which rent was last paid and for which tenant is in default, may make an order specifying the amount due. After such a determination the tenant is granted one month's time to pay to the landlord the amount which was specified. The proviso of the Act, limits the discretion of the court to extend the time for deposit of arrears of rent. The extension can be provided once and not exceeding two months.

14. Thus in case of dispute as regards rate of rent the tenant is required to pay or deposit the admitted arrears of rent, if any, and the current rent within the period specified in Section 7(1) of the 1997 Act and to file an application under Section 7(2) of the 1997 Act within the same period for determination of arrears as well as rate of rent. It is not that non filing of an application under section 7(1) of the 1997 Act would render the application under Section 7(2) of the 1997 Act bad even if the conditions of section 7(1) of the 1997 Act have been fully complied with.

15. The learned Trial Court has dismissed the petitioner's application under Section 7(2) of the 1997 Act for simply non filing of the application under Section 7(1) of the 1997 Act and invoked the provisions of Section 7(3) of the 1997 Act without

deciding how Section 7(1) of the 1997 Act has been violated, if at all. Reliance on the order of a Coordinate Bench of this Court in CO 3571 of 2013 (Sri Loknath Dhal vs Smt. Gita Rani Roy) by the learned Trial Court is also improper inasmuch as the said decision was rendered in the context of an application for condonation of delay in compliance with the provision of Section 7(1) of the 1997 Act. Such is not the case here.

16. For all the reasons aforesaid, the order impugned is set aside. The learned Trial Court shall rehear the petitioner's application under Section 7(2) of the 1997 Act and decide the same in the light of the law governing the field. It is needless to mention that while deciding the said application, the learned Trial Court shall be duty bound to determine as to whether there are arrears of rent payable by the petitioner or not and also to check and decide as to whether the current rent, as contended by the petitioner, has been and is being deposited in terms of the provisions of Section 7(1) of the 1997 Act. In case, the petitioner is found to be wanting in compliance with the provisions of Section 7(1) of the 1997 Act, the legal consequences as mentioned in the 1997 Act will follow.

17. The learned Trial Court is requested to dispose of the petitioner's application under Section 7(2) of the 1997 in accordance with law as expeditiously as

possible and preferably within a period of one month from the next date fixed without granting any unnecessary adjournment to either of the parties.

18. CO 1172 of 2026 stands disposed of. No costs.

19. 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.)