

AD-36
Ct No. 6
30.04.2026
TN
Bench ID
266306

CO 1266 of 2026

Smt. Sangeeta @ Sangita Dutta
Vs.
Sri Niladri Ghosh and another

Mr. Biswa Ranjan Bhakat,
Mr. Satya Ranjan Kundu

....for the petitioner

1. This revisional application is directed against an order dated December 20, 2025 passed by the learned Civil Judge (Junior Division), 1st Court, Sadar, Bankura in Title Suit No. 376 of 2023 whereby the petitioner's application challenging the maintainability of the suit on the ground of invalidity of the notice for eviction has been rejected.
2. Learned Advocate appearing for the petitioner submits that the learned Trial Court has committed a jurisdictional error in rejecting the petitioner's application challenging the maintainability of the suit on the ground that clear one month's notice was not given to the petitioner.
3. The learned Trial Court has dismissed the maintainability application while observing as follows:

".....From the notice of eviction U/S 6(4) of the West Bengal Premises Tenancy Act it is found that the notice was issued on 02.11.2022. It is admitted that

the defendant received the notice on 03.11.2022. It further appears that in the notice the plaintiff requested the defendant to vacate the suit premises within one month from the date of receiving of notice (from 03.11.2022). The present suit is filed on 17.11.2023 almost one year from the issuance of notice. The Ld. Advocate for the defendant challenges the maintainability of the suit on the ground that one calendar month was not given to the defendant. In our present case whereas there is no written agreement or rent receipt after 31.03.2019 (date of termination of tenancy period) so as general rule of law it can be presumed that the tenancy period started from the 1st day of English Calendar month which continued till the last day of month. Here in this case the plaintiff sent notice on 02.11.2022 which is on the following day of starting of month”

On considering the above facts and upon hearing from both sides I do not find the notice dated 02.11.2022 sent by the Ld. Advocate for the plaintiff to be invalid at this stage. However, the defendant has every opportunity to challenge the validity of the notice dated 02.11.2022 at trial.

4. The observations made by the learned Trial Court are perfectly justified inasmuch as the question as regards the validity of notice that has been raised by the petitioner while assailing the maintainability of the suit is a mixed question of law and fact which

cannot be decided without adduction of evidence at trial. In such view of the matter, there is no error, far less jurisdictional error, in the order impugned.

5. Accordingly there is no ground to interfere with the order impugned.
6. CO 1266 of 2026 stands dismissed. No costs.
7. Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Om Narayan Rai, J.)