

CO. 1277 of 2026

24.06.26
D/L
Sl-24
Ct. 06
(Samar)

Smt. Shibani Das
Vs.
Mrinal Kanti Saha

Mr. Imtiaz Belal,

... for the petitioner.

Ms. Debjani Sengupta,

Ms. Paulomi Ghosh,

.... for the opposite party.

1. This revisional application is directed against an order dated November 14, 2025 passed by the learned Civil Judge (Junior Division), Bidhannagar, North 24-Parganas in Ejectment Suit No. 69 of 2011 whereby the petitioner's application under Section 7(2) of the West Bengal Premises Tenancy Act, 1997 has been dismissed and it has been observed that the petitioner is not entitled to get any protection under Section 7(4) of the 1997 Act.
2. Ejectment Suit No. 69 of 2011 has been instituted by the opposite party seeking a decree for eviction of the petitioner *inter alia* on the grounds of reasonable requirement and default.
3. In the said suit, the petitioner filed applications under Sections 7(1) and 7(2) of the 1997 Act. The application under Section 7(2) of the 1997 Act was filed on November 11, 2011. It is not in dispute that such application was filed belatedly i.e. beyond the period mentioned in Section 7(1) of the 1997 Act.

4. The said application was accompanied with an application under Section 5 of the Limitation Act, 1963 praying for condonation of delay in presenting the said application under Section 7(2) of the 1997 Act.
5. On July 10, 2018, the application under Section 5 of the Limitation Act was allowed by the learned Trial Court on consent. Thereafter, the application under Section 7(2) of the 1997 Act was heard and ultimately the same stood dismissed by the order impugned.
6. Feeling aggrieved thereby the petitioner has approached this Court by filing the present revisional application.
7. Learned advocate appearing for the petitioner submits that the learned Trial Court has committed a serious error in dismissing the petitioner's application under Section 7(2) of the 1997 Act on the ground that the same had been filed beyond the statutory period inasmuch as, the learned Trial Court had itself allowed the application for condonation of delay filed by the petitioner upon the same being consented to by the opposite party.
8. It is submitted that once the learned Court had allowed the application for condonation of delay and entertained the application under Section 7(2) of the 1997 Act, the learned Trial Court could not have

gone back on the same order and dismissed the petitioner's application under Section 7(2) of the 1997 Act, thereby reversing its earlier decision of condonation of delay.

9. Learned advocate appearing for the opposite party submits that the learned Trial Court was absolutely justified in dismissing the petitioner's application under Section 7(2) of the 1997 Act by observing that the same had been filed beyond the period prescribed under Section 7 of the 1997 Act.
10. It is submitted that the assertion of the petitioner that as the application under Section 5 of the 1963 Act had been allowed on consent and therefore the learned Trial Court could not have dismissed the petitioner's application under Section 7(2) of the 1997 Act on the ground that the same had been filed beyond the statutory period, does not hold substance inasmuch as jurisdiction cannot be conferred by consent.
11. It is next submitted that the learned Trial Court neither had jurisdiction to entertain the application under Section 7(2) of the 1997 Act after expiry of the period prescribed therefor nor had the jurisdiction to extend the said period prescribed by Section 7 of the 1997 Act on an application under Section 5 of the 1963 Act.
12. Heard learned advocates appearing for the

respective parties and considered the material on record.

13. This Court notes that the order impugned has held against the petitioner on two counts. Firstly, the learned Trial Court has found that the petitioner had not filed the application under Section 7(2) within the statutory period. Secondly, the learned Trial Court has found that that the petitioner has not deposited the admitted arrears of rent till the date of the order.
14. Even if, for the sake of argument, the first of the two observations made by the learned Trial Court is considered to be bad, the application under Section 7(2) of the 1997 Act filed by the petitioner would still have to fail for non-compliance with the mandatory condition of deposit of admitted arrears and the petitioner's defence would still suffer the wrath of Section 7(3) of the 1997 Act.
15. There is substance in the submission made by the learned advocate appearing for the opposite party that jurisdiction cannot be conferred on a Court by consent. Indeed, the period prescribed in Section 7 of the 1997 Act is required to be strictly adhered to. Law in such case has been settled by the Hon' ble Supreme Court in the case of ***Seventh Day Adventist Senior Secondary School vs. Ismat Ahmed & Ors.*** reported at **2025 SCC OnLine SC**

1696.

16. It is well settled that a question of limitation goes to the root of the matter and if a Court does not have jurisdiction to entertain an application after a particular point of time, the Court cannot assume jurisdiction or confer jurisdiction on itself by extending such period (See: **Noharlal Verma vs. Distt. Coop. Central Bank; (2008) 14 SCC 445**).

It is equally well settled that if by an erroneous decision the Court assumes jurisdiction which it does not possess under the statute, the question cannot operate as res judicata between the same parties (See: **Mathura Prasad Bajoo Jaiswal vs. Dossibai N.B. Jeejeebhoy; (1970) 1 SCC 613**). The learned Trial Court was in seisin of the Section 7(2) application and, as such, it was competent to dismiss the said application once it found that the same had been entertained without jurisdiction.

17. This Court does not find any illegality and/or material irregularity in the ultimate decision taken by the learned Trial Court in dismissing the petitioner's application under Section 7(2).

18. For all the reasons aforesaid, the order dated November 14, 2025 is not interfered with. CO 1277 of 2026 stands dismissed.

19. There shall be no order as to costs.

20. 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.)