

22.06.2026
Item No.3 (DL)
Court No.06
AJ.

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

C.O. 1568 of 2025

**Shrimati Laxmi Nayak
-Vs-
Shrimati Manjit Kaur**

Mr. Rabindranath Manato,
Mr. Aritra Shankar Ray.
.....for the petitioner.
Mr. Prashant Kumar Singh,
Mr. Subhamoy Dutta.
.....for the opposite party.

1. This revisional application is directed against orders dated March 31, 2023 and September 10, 2024 passed by the learned Civil Judge (Junior Division), 2nd Court at Midnapore, District: Paschim Medinipore in Other Suit No. 90 of 2019.

2. By the order dated March 31, 2023 the petitioner's application seeking permission to effect repair to the suit property has been rejected. By the order dated September 10, 2024 the petitioner's application under Section 7(2) of the West Bengal Premises Tenancy Act, 1997 has been rejected.

3. Other Suit No. 90 of 2019 has been instituted by the opposite party seeking eviction of the petitioner. In the said suit, the petitioner had filed applications under Section 7(1) and 7(2) of the 1997 Act. While the said applications were pending, the petitioner made another application under

Section 151 of the Code of Civil Procedure, 1908 praying for permission to make repairs of the suit property. The learned Trial Court has observed that the suit plot appears to be completely damaged and destroyed beyond repair and in such a situation, prayer for repair would be an impossibility.

4. Having regard to the factual observation made by the learned Trial Court, this Court does not find any reason to interfere with the same. The order dated March 31, 2023 is, therefore, not interfered with.

5. Insofar as the order dated September 10, 2024 is concerned, Mr. Mahato, learned Advocate appearing for the petitioner submits that since the petitioner had filed applications under Sections 7(1) and 7(2) of the 1997 Act on the day the petitioner entered appearance, the petitioner could not be faulted for non-disposal thereof. It is submitted that once the application is filed, it was for the learned Trial Court to dispose of the same and pendency thereof could not be attributed to the petitioner. It is further submitted that even otherwise, the petitioner has been depositing the current rent in the learned Trial Court in accordance with the provisions of Section 7(1) of the 1997 Act.

6. Mr. Singh, learned Advocate appearing for the opposite party submits that it would be

incumbent on the petitioner to demonstrate before the learned Trial Court that the provisions of Section 7(1) of the 1997 Act have been complied with.

7. Heard learned Advocates appearing for the respective parties and considered the material-on-record.

8. Section 7(1) of the 1997 Act mandates that admitted arrears as well as the current rent must be deposited within a month from the date of service of summons or from the date of appearance (in cases where summons has not been served). Since it is the petitioner's case that the petitioner has filed the applications under Section 7(1) and 7(2) of the 1997 Act on the date of appearance, it would be required to be seen as to whether the date of filing of such application complies with the mandatory timelines and other requirements of Sections 7(1) and 7(2) of the 1997 Act.

9. In case it is found that the petitioner has complied with the mandate of Section 7(1) of the 1997 Act, it is only then that the petitioner's application under Section 7(2) of the 1997 Act can be considered. In the present case since it has been submitted by Mr. Mahato, learned Advocate appearing for the petitioner the relationship of landlord and tenant has not been disputed and the dispute only centers around determination of rent,

rate of rent and arrears thereof, therefore such determination needs to be done by the learned Trial Court. Such determination can be done only when the learned Trial Court concludes as to whether the said applications had been filed within time or not.

10. Since the learned Trial Court has rejected the petitioner's application under Section 7(2) of the 1997 Act only on the ground that the application under Section 7(1) of the 1997 Act was not moved by the petitioner prior to depositing the rent in Court; without first ascertaining as to when was the application filed and as to whether the provisions of Section 7(1) have been complied with or not, the order impugned deserves interference.

11. Accordingly, the order dated September 10, 2024 is set aside. The matter is remanded to the file of the learned Trial Court for a fresh decision on the petitioner's application under Section 7(1) and 7(2) of the 1997 Act in accordance with law.

12. With the above observations, C.O. 1568 of 2025 stands disposed of. There shall be no order as to costs.

11. 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.)