

12.03.2026
Item No.06 (DL)
Court No.06
AJ.

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

C.O. 1726 of 2025

**Jitendra Prasad Shukla
-Vs-
Children's Nook**

Mr. Debjit Mukherjee,
Mr. Kaustav Bhattacharya,
Ms. Priyanka Jaan,
Ms. Shreejita Sen.
.....for the petitioner.

Ms. Suvadeep Sen,
Ms. Sanchalita Sarkar,
Mr. Satyajit Senapati.
.....for the opposite party.

1. This revisional application is directed against an order dated April 11, 2025 passed by the learned Civil Judge (Junior Division), 3rd Court at Howrah whereby the opposite party's application under Section 7(2) of the West Bengal Premises Tenancy Act, 1997 (hereafter the said Act of 1997) has been disposed of by holding that the opposite party is a defaulter in payment of rent for a period of 13 months and by directing the opposite party to pay the rent-arrears together with 10% interest thereon to the petitioner in two installments within two months from the date of the order.

2. Mr. Mukherjee, learned Advocate appearing for the petitioner submits that while passing the order impugned the learned Trial

Court has failed to appreciate that the opposite party's application under Section 7(2) of the said Act of 1997 was not even fit to be entertained by the learned Trial Court inasmuch as the opposite party had approached the Court with such application after the period of one month from the date of receipt of summons. In support of his contention he invites the attention of this Court to the submissions made by the opposite party's witness as recorded in the affidavit of evidence-in-chief whereat the said witness has stated that "our School received summons of this suit on 7th November, 2017".

3. It is submitted that in terms of the provisions of Section 7(1) of the said Act of 1997, it is mandatory for the tenant to deposit the admitted rents within one month from the date of service of summons and to go on depositing rent month by month thereafter as ordained by Section 7(1)(c) of the said Act of 1997.

4. Mr. Sen, learned Advocate appearing for the opposite party, submits that this issue was never raised before the learned Trial Court and that in any case, the statement that has been made by the defendant's witness in the affidavit of evidence-in-chief is factually incorrect inasmuch as the summons was actually received by the defendant on November 29, 2017. In support of

his such contention, he relies on an information slip obtained by the opposite party from the learned Trial Court.

5. In reply thereto Mr. Mukherjee submits that even if it is assumed that such issue was never raised before the learned Trial Court then also, it was the duty of the Court to get satisfied as to whether the provisions of Section 7(1) of the said Act of 1997 have been complied with or not.

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

7. It is noticed that in the written objection filed on behalf of the petitioner to the application under Section 7(2) of the said Act of 1997, the petitioner has assailed the maintainability of the application under Section 7(2) of the said Act of 1997.

8. This Court finds force in the submissions of Mr. Mukherjee that in any case, when an application under Section 7(1) of the said Act of 1997 is filed, the learned Trial Court should arrive at a satisfaction as regards compliance with the mandatory and strict timelines mentioned in Section 7(1) of the said Act of 1997 inasmuch as non-compliance thereof may lead to striking out the defence of the tenant under Section 7(3) of the said Act of 1997.

9. Since the tenant is under obligation to comply with the provisions of Section 7(1) of the said Act of 1997 (as well as Section 7(2) of the said Act of 1997 where there is a dispute as to the amount payable) in order to get protection against eviction it was incumbent on the learned Trial Court to decide as to whether there has been compliance with the provisions of the said Section (Sections) or not. Such satisfaction is not apparent from the order impugned.

10. On such score alone the order impugned is set aside. The learned Trial Court is requested to decide the opposite party's application under Section 7(1) and 7(2) of the said Act of 1997 afresh upon hearing the respective parties.

11. It is made clear that this Court has not expressed any opinion on the merits of the matter and all points are left open to be urged by the petitioner as well as the opposite party before the learned Trial Court, which shall be decided by the learned Trial Court in accordance with law.

12. The learned Trial Court is requested to dispose of the applications under Sections 7(1) and 7(2) of the said Act of 1997 as expeditiously as possible preferably within a period of four months from the next date fixed.

13. The learned Trial Court shall endeavour to decide and dispose of the suit as expeditiously as

the business of the learned Trial Court would permit.

14. C.O. 1726 of 2025 stands disposed of. No costs.

16. 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.)