

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

**BEFORE:
THE HON'BLE JUSTICE OM NARAYAN RAI**

**C.O. 1969 of 2025
With
CAN 1 of 2025
CAN 3 of 2025**

**Sumit Singh & Another
Vs.
Nemai Manna & Another**

For the Petitioners	: Ms. Writi De, Adv. Ms. Riya De, Adv.
For the Opposite Parties	: Mr. Anirban Roy, Adv. Mr. Dipraj Chakraborty, Adv.
Heard on	: 11.05.2026
Judgment on	: 11.05.2026

OM NARAYAN RAI, J.:-

1. This application under Article 227 of the Constitution of India is directed against an order dated April 08, 2025 passed by the learned Chief Judge, Presidency Small Causes Court at Calcutta in Ejectment Suit No. 06 of 2025 whereby the petitioners' applications under Section 151 of the Code of Civil Procedure, 1908 (hereafter "the Code") have been rejected and the provisions of Section 7(3) of the West Bengal Premises Tenancy Act, 1997 (hereafter "the 1997 Act") have been invoked.
2. The opposite parties have instituted Ejectment Suit No. 06 of 2025 before the Presidency Small Causes Court at Calcutta for eviction of the petitioners, *inter alia*, on the ground of negligence and default. In the said

suit summonses were served upon the petitioners on January 31, 2025 and the petitioners entered appearance in the suit on February 27, 2025. On the February 27, 2025 itself, the petitioners filed two applications - one under Section 7(1) of the 1997 Act and the other under Section 7(2) thereof.

3. The application under Section 7(1) of the 1997 Act was allowed on the same date i.e. on February 27, 2025 thereby permitting the petitioners to deposit the current monthly rents and the application under Section 7(2) of the 1997 Act was posted for hearing on the next date in the suit.
4. The petitioners could not deposit the current rent within the period prescribed under Section 7(1) of the 1997 Act. Therefore, the petitioners filed two applications under Section 151 of the Code. One of the said applications was filed on March 19, 2025, whereby the learned trial Court was requested to pass an order under Section 7(1) of the 1997 Act. The subsequent application under Section 151 of the Code had been filed on the immediately following day i.e. March 20, 2025 whereby the petitioners prayed for permission to deposit the rent for the month of February, 2025 and the subsequent months along with a direction upon the department to accept such deposit.
5. Both the said applications have been rejected by the order impugned. Hence the present revisional application.

SUBMISSIONS OF THE PETITIONERS:

6. Ms. De, learned advocate appearing for the petitioner submits that on the date when the applications under Section 7(1) and 7(2) of the 1997 Act were moved i.e. on February 27, 2025 no order was passed by the learned trial Court and the matters were only posted for hearing on the next date fixed in

the suit. She further submits that the learned advocate for the petitioners could not attend the Court on any day thereafter till March 19, 2025 due to a bereavement in her family (i.e. the grandmother of the said learned Advocate had passed away).

- 7.** It is submitted that no order had been passed on the application under Section 7(1) of the 1997 Act on February 27, 2025 when the matter was moved and the matter was simply posted to the next date in the suit. She submits that in such view of the matter, the petitioners had no occasion to deposit the current monthly rent in terms of the provisions of Section 7(1) of the 1997 Act.
- 8.** It is further submitted that the learned Advocate appearing for the petitioners came to learn about the order dated February 27, 2025 much later i.e. only on March 19, 2025 - when the first application under Section 151 of the Code was filed and accordingly, the second application under Section 151 of the Code was filed on the following day i.e. on March 20, 2025.
- 9.** She further submits that the order dated February 27, 2025 whereby the petitioners' application under Section 7(1) of the 1997 Act had been disposed of is still not there on the e-portal of the Courts. It is also submitted that since the order was not uploaded on the e-portal therefore the petitioners could not know about such order and as such the deposit of current rent would not be made.
- 10.** It is next submitted that the petitioners cannot be blamed for the delay in deposit such rent as the petitioners were not aware about any order having been passed on February 27, 2025 since on the said date no order was

actually passed and the matter was only posted for hearing on the next day fixed in the suit.

11. Ms. De submits that the first application made by the petitioners on March 19, 2025 requesting the learned Court to pass orders on the petitioners' application under Section 7(1) of the 1997 Act would clearly indicate that no order had actually been passed on February 27, 2025. It is next contended that in such view of the matter, the second application under Section 151 of the Code made on the following day seeking permission to deposit rent must be treated as an application made well within time seeking permission to deposit rent and the petitioners cannot be penalized for no fault of theirs.

SUBMISSIONS OF THE OPPOSITE PARTIES:

12. Mr. Roy, learned Advocate appearing for the opposite parties vehemently opposes the submissions of the petitioners and submits that the petitioners were well aware that the application under Section 7(1) of the 1997 Act that had been filed by them had been allowed on the same day on which it was moved. In support of his contention he relies on a certified copy of the application under Section 7(1) of the 1997 Act filed by the petitioners before the learned Trial Court and demonstrates that there is an endorsement thereon by the learned Trial Court at the left hand side (bottom) thereof indicating that the application under Section 7(1) of the 1997 Act stood allowed on the same day and the application under Section 7(2) of the 1997 Act was posted for hearing to a later date.
13. He submits that on the next date fixed i.e. on March 03, 2025 an adjournment was prayed for on behalf of the petitioners and the petition for adjournment was signed and filed by the learned Advocate on record for the

petitioners. He also submits that in such view of the matter it cannot be said that the learned Advocate for the petitioners was unable to see the records of the case on that day or only day prior to March 19, 2025 as contended by Ms. De.

14. Mr. Roy then cites a judgment of the Hon'ble Supreme Court in the case of ***Seventh Day Adventist Senior Secondary School vs. Ismat Ahmed & Others***¹ and submits that the provision of Section 7(1) of the 1997 Act is mandatory and the time indicated therein cannot be extended by the Court.
15. He further submits that by the order impugned while the learned Trial Court has rightly invoked the provision of Section 7(3) of the 1997 Act, the said learned Court has erroneously allowed the petitioners/defendants time to file written statement.

ANALYSIS & DECISION:

16. Heard the learned Advocates appearing for the respective parties and considered the materials on record.
17. In the present case, the petitioners contend that they were unaware of any order that had been passed on their application under Section 7(1) of the 1997 Act. A copy of the certified copy of the order dated February 27, 2025 has been appended at page 44 of the revisional application. It is evident therefrom that petitioners' application under Section 7(1) of the 1997 Act was allowed on the said day itself. The certified copy of the application under Section 7(1) of the 1997 Act that has been produced in the Court by Mr. Roy, learned Advocate for the opposite parties also reveals that the

¹2025 SCC OnLine SC 1696

application under Section 7(1) of the 1997 Act was allowed on the same date.

- 18.** The petitioners however contend that no order was passed on the said date and the applications were postponed to the next date in the suit and further that the order dated February 27, 2025 has not been uploaded on the e-court's website. Taking the petitioner's contention at face value and giving the benefit of doubt to the petitioners, even if it is assumed that the said order was neither passed nor uploaded on the said date and the petitioners therefore remained unaware of the same, this Court still does not find any answer to the question as to why did the petitioners not approach the learned Court earlier by way of another application seeking immediate direction or permission for putting in the current monthly rent given the mandatory non-extendable time lines under Section 7(1) of the 1997 Act.
- 19.** The assertion of the petitioners that they could not approach the learned Court earlier (i.e. at any time after February 27, 2025 till March 19, 2025) fails to inspire confidence of this Court. The grandmother of the learned Advocate for the petitioners in the learned Trial Court passed away on February 25, 2025, yet, the application under Sections 7(1) and 7(2) of the 1997 Act were filed on February 27, 2025 which is a date just two days subsequent to the passing away of the grandmother of the learned Advocate for the petitioners and prior to the conclusion of the mourning rituals. The applications were admittedly moved on that day itself since it is the petitioners' case that on that day no order was passed and verbally the learned Trial Court directed the same to be heard on the next date fixed in the suit i.e. on March 03, 2025. If such application could be filed and

moved, there is no reason why an application urging the learned Court to pass orders on the petitioners' application under Section 7(1) could not have been filed and moved prior to March 19, 2025.

- 20.** Furthermore, the certified copy of the application for adjournment that was filed on March 03, 2025 under the signature of the said learned Advocate on March 03, 2025 reveals that inability of the learned Advocate for the petitioners to attend the Court for observing mourning rituals on the demise of her grandmother has not been cited as the ground for adjournment. In fact, the petitioners have thereby simply sought for time to file written statements.
- 21.** It is noticed that on June 16, 2025 when this revisional application was admitted by a co-ordinate Bench of this Court, the question that was framed by this Court was as to whether in view of the judgment of the Hon'ble Supreme Court in the case of **Debasish Paul & Another vs. Amal Boral**², the petitioners would be entitled to an extension of time to comply with the requirements under Section 7(1) of the 1997 Act. However, the said question has been answered in the negative by the Hon'ble Supreme Court in the case of **Seventh Day Adventist Senior Secondary School** (supra) upon considering **Debasish Paul & Another** (supra).
- 22.** It has now been settled that the time limits specified in Section 7(1) of the 1997 Act are mandatory and the same cannot be extended by invoking the provisions of Section 5 of the Limitation Act, 1963. The relevant paragraphs of **Seventh Day Adventist Senior Secondary School** (supra) are extracted hereinbelow:-

² (2024) 2 SCC 169

“28. Hence, taking clue from the above referred judgments and principles of the statutory interpretation, the intent of WBPT Act and the circumstances wherein, the words 'shall' and 'may' have been used in the same Section at different places, is required to be adverted. As referred above in paragraphs 22, 23 and 24, it is apparent that whenever the words 'payment' or 'deposit' of rent (disputed or undisputed) have been used, the tenant has been cast with an obligation to deposit such rent within the specified time by using the word 'shall' therein. In case of disputed rent, the tenant is also required to file an application along with such deposit. The legislative intent behind using the word 'shall' is to ensure that in case the tenant who is in occupation of premises defaults in payment of rent due to some inadvertence or fault, on ground of which the eviction is sought by the landlord, then on service of the summons, to prevent his defence from getting struck-off, the tenant must comply with the twin pre-requisites. Section 7(1) provides that the tenant shall pay to landlord or deposit all arrears of rent, while the textual setup of first part of sub-section (2) of Section 7 is that the tenant shall within the time specified, 'pay' or 'deposit' the amount of rent as admitted as due by him. Indeed, it is true that in the latter part of sub-section (2) of Section 7, the word 'shall' has again been used in the context of deciding the application for determination of the rent, stating therein that 'tenant shall within one month of the date of such order, pay to the landlord the amount so specified in the order'. Therefore, in the latter part, the word 'tenant shall' would be referable for payment of the amount to the landlord so specified in the order, and in the said interpretive context, the extension of time is based on the discretion of the Civil Judge only once, which may not exceed beyond two months. Thus, the proviso appended therein would apply only to a case where the amount specified in the order after determination was not paid within the period as specified therein. Consequently, by virtue of the proviso, in the latter part, the word 'shall' would intend only to the time period prescribed in the order, and it would not include the time period for initial period as specified under Section 7(1)(a) and (b) and the former part of Section 7(2).

30. *In the case of Debasish Paul (supra), the suit was filed for eviction by landlord. On entering appearance, applications under Sections 7(1) and 7(2) of the WBPT Act were filed with a delay of 10 months without any application under Section 5 of the Limitation Act. The trial Court rejected the said applications because they were not filed within the statutory time. In revision, the High Court set-aside the order of the trial Court and granted liberty to the tenant for filing applications along with application under Section 5 of the Limitation Act, 1963, explaining the sufficient cause. When the matter reached this Court in appeal, this Court had specifically opined that if lesser time period has been specified for limitation in the WBPT Act, then the*

provisions of the Limitation Act, 1963 cannot be used to extend the same and set-aside the order of High Court while sustaining the order of the trial Court.

31. Learned counsel appearing on behalf of the appellant made a strenuous attempt relying upon the observations made in paragraphs 17, 18 and 19 of the judgment rendered in *Debasish Paul (supra)*, wherein the Court has referred to the judgment of *Bijay Kumar (supra)*. In this regard, paragraphs 17, 18 and 19 are relevant and are reproduced below as thus:-

"17. We are of the view that a combined reading of the two statutes would suggest that while the Limitation Act may be generally applicable to the proceedings under the Tenancy Act, the restricted proviso under Section 7 of the said Act, providing a time period beyond which no extension can be granted, has to be applicable. The proviso is after sub-section (2) of Section 7 but sub-section (2) of Section 7 in turn refers to sub-section (1) implying the application of the proviso to sub-section (1) too.

18. There is also a larger context in this behalf as the Tenancy Acts provide for certain protections to the tenants beyond the contractual rights. Thus, the provisions must be strictly adhered to. The proceedings initiated on account of non-payment of rent have to be dealt with in that manner as a tenant cannot occupy the premises and then not pay for it. This is so even if there is a dispute about the rent. The tenant is, thus, required to deposit all arrears of rent where there is no dispute on the admitted amount of rent and even in case of a dispute. The needful has to be done within the time stipulated and actually should accompany the application filed under sub-sections (1) & (2) of Section 7 of the said Act. The proviso only gives liberty to extend the time once by period not exceeding two months.

19. The respondent neither paid the rent, nor deposited the rent by moving the application nor deposited it within the extended time as stipulated in the proviso. The mere allegation of absence of correct legal advice cannot come to the aid of the respondent as, if such a plea was to be accepted it would give a complete licence to a tenant to occupy premises without payment of rent and then claim that he was not correctly advised. If the tenant engages an advocate and abides by his advice, then the legal consequences of not doing what is required to be done, must flow."

32. In the said context, if we see the intent of legislature as discussed and relying upon two cases of three-Judge Bench of this Court, we intend to explain that Section 7 of the WBPT Act prescribes when a tenant can get the benefit of protection against eviction. The opening word of sub-section (1) i.e., 'on a suit being instituted by the landlord for eviction' makes it clear that in case the tenant defaults in payment of rent and the suit is brought as specified in the WBPT Act, then on deposit/payment of admitted rent, an opportunity ought to be provided to get the benefit of protection against eviction. Therefore, for availing such benefit, some pre-requisites are there,

which is of deposit of the rent, either disputed or undisputed as admitted, within the specified time. In case, the rent is disputed, the tenant has to mandatorily file an application, by virtue of word 'shall' used to such extent either in Section 7(1)(a)(b)(c) or first part of Section 7(2). However, in the latter part of Section 7(2), which is for payment of amount on determination by the Civil Judge within the time as specified after compliance of the pre-deposit and on filing an application for determination within the specified time, such payment has to be made by the tenant within one month of date of order passed by Civil Judge. The proviso refers to extension of time with an intent to grant one more opportunity to the tenant after determination of rent for deposit.

33. *At this juncture, we also deem it relevant to refer sub-section (3) of Section 7, wherein it is specified that if tenant fails to deposit or pay any amount referred in sub-section (1) or sub-section (2) within the time specified therein or within such extended time as may be granted by the Court, his defence against delivery of possession shall be struck out. So it deals with the following contingencies; first is of Section 7(1)(a)(b)(c), second is of former part of Section 7(2) and third is of latter part of Section 7(2) and in default of either of the situations, the Judge shall order the defence against delivery of possession to be struck out and shall proceed with the hearing of the suit specifying the consequences of failure to do any of the three situations. While using the word extended time in sub-section (3), the word shall has been used, therefore, this would also be referable to the provision which leads to the conclusion that in case the tenant fails to deposit the determined amount within the time specified or within the extended time. In that contingency the order of striking out of defence be passed and suit be proceeded for hearing. As explained from above discussion, we are constrained to say that the arguments as advanced by the learned counsel for the appellant relying upon the paragraphs 17, 18 and 19 of the judgment in Debasish Paul (supra) are not germane, hence repelled."*

23. For all the reasons aforesaid, no interference is called for with the order impugned, excepting the clarification that upon the defense of the petitioners having been struck out, the written statement filed by the petitioners would become insignificant and the petitioners would only be entitled to the right of cross examination and advancing arguments as held

by the Hon'ble Supreme Court in the case of ***Modula India vs. Kamakshya Singh Deo***³.

- 24.** C.O. 1969 of 2025 stands dismissed. CAN 3 of 2025 is an application for extension of interim order and CAN 1 of 2025 is an application for vacating the interim order granted earlier. In view of the dismissal of the revisional application being C.O. 1969 of 2025 itself, the said applications also stand disposed of accordingly. No costs.
- 25.** Urgent certified website copy of this order, if applied for, be given to the parties upon compliance with all requisite formalities.

(Om Narayan Rai, J.)

Sl. No. 10
skg

³ (1988) 4 SCC 619