

20.01.2026
Item No.3
Ct. No. 30
Aloke

CO 1704 of 2022

**Santimoyee Roy
Vs
Jayanta Kumar Ghosh & Ors.**

Mr. Debabrata Sen
Mr. Dilip Kr. Saha
Mr. Arun Kr. Das
... for the petitioner

1. The revision has been preferred against an order dated 06.04.2022 passed by the learned Judge, 5th Bench, Presidency Small Causes Court at Calcutta, in connection with an application under sub-section (3) of Section 7 of the West Bengal Premises Tenancy Act, 1997.
2. The defendant/petitioner's case is that immediately upon receiving summons in the present Ejectment Suit No. 363 of 2010, the defendant/petitioner entered appearance and filed applications under sub-section (1) and (2) of Section 7 of the West Bengal Premises Tenancy Act, 1997 within its statutory limitation period.
3. In the said 7(1) application, the defendant/petitioner sought for leave to make civil deposit of current month rent on and from August, 2010 onwards at the agreed rate of rent of Rs.30/- per month and also to deposit admitted arrear rents and in the aforesaid 7(2) application, the defendant/petitioner sought for adjudication of any

arrear of rent in respect of the suit property. The said application under Section 7(1) of the said Act, 1997 was allowed on 23.08.2010 vide order no. 2 on contest.

4. In compliance of the said order no. 2 dated 23.08.2010, the defendant/petitioner on 25.08.21010 started making civil deposit of current month rent for the month of August, 2010 and also deposited the admitted and/or agreed arrear rent for the period from January, 2004 to July, 2010 along with statutory interest thereon and thereafter, the defendant/petitioner has been depositing current rent month by month in the learned Court below till date.

5. The petitioner further states that the application under Section 7(2) of the said Act of 1997 was disposed of vide order no. 13 dated 10.04.2012 and the learned trial Court erroneously held that arrear rent along with interest of Rs.3,432/- for the period from January, 2004 to August, 2010 instead of January, 2004 to July, 2010 without taking into account the already deposited agreed arrear rent on 25.08.2010 vide challan dated 25.08.2010 and erroneously directed the defendant/petitioner to pay the said amount within one month from the date of the said order.

6. It is further stated that the said challan dated 25.08.2010 could not be taken into account at the time of dealing with the application under Section

7(3) of the said Act of 1997 and the Court passed the impugned order no. 62 dated 06.04.2022.

7. In the present civil revisional application, the petitioner/revisionist has challenged the order no. 62 dated 06.04.2022, passed by the learned Judge, 5th Bench, Presidency Small Causes Court at Calcutta against the application under Section 7(3) of the West Bengal Premises Tenancy Act, 1997 striking off defence of the defendant/petitioner against delivery of possession.

8. The defendant/petitioner states that he is not in arrears of rent, and there has been an improper decision reached by the learned trial Court, while deciding the application under Section 7(2) of the WBPT Act, 1997, on holding the petitioner to be in arrears of rent for the period from January, 2004 to August, 2012. The challan dated 25.08.2010 was also not considered by the learned trial Court, while dealing with the Section 7(3) application.

9. The defendant/petitioner with the leave of the Hon'ble Court filed a supplementary affidavit in connection with the present revisional application by assailing the order no. 13 dated 10.04.2012 (under Section 7(1) and 7(2) of the WBPT Act).

10. It is thus admitted by the defendant/petitioner herein that she did not challenge the order under Section 7(2) of the WBPT Act dated 10.04.2012.

11. The petitioner has now raised the issue that the said order was erroneous and based on the said erroneous order under Section 7(2) of the WBPT Act, order under Section 7(3) of the WBPT Act has been passed and the petitioner submits that as such the order under Section 7(3) of WBPT Act is erroneous.

12. The order dated 10.04.2012 passed in respect of the application under Section 7(2) of the WBPT Act has been assailed for the first time by the defendant/petitioner by filing a supplementary affidavit dated 16th August, 2022, after **10 long years**.

13. Having not challenged the said order at the appropriate stage/time, a tenant/petitioner herein paying rent at the rate of Rs.30/- per month, cannot after 10 long years challenge the said order under Section 7(2) of the WBPT Act, 1997 and if permitted to do so, will cause severe prejudice to the landlord/opposite party, who has during this 10 long years acquired a valuable right in the suit/tenanted property.

14. The challenge to the order under Section 7(3) of the WBPT Act, 1997 is only on the basis of an allegedly erroneous order under Section 7(2) of WBPT Act, 1997 which at this stage after 10 long years cannot be entertained.

15. Thus, on perusal of the order under Section 7(3) of the WBPT Act, this Court finds no reasons to interfere with the order dated 06.04.2022 passed by

the learned Judge, 5th Bench, Presidency Small Causes Court at Calcutta, in connection with the application under sub-section (3) of Section 7 of the West Bengal Premises Tenancy Act, 1997, the same being in accordance with law.

16. CO 1704 of 2022 is dismissed.

17. Connected application, if any, stands disposed of.

18. Interim order, if any, stands vacated.

19. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Shampa Dutt (Paul), J.)