

02.04.2026

Sl. No. 12

Ct.No. 32

Amalranjan

ASSIGNED

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE

C.O. 2189 of 2024

Sambhu Adhikari

Vs

Sri Rajen Kumar Jaiswal

Mr. Satyendra Agarwal

Mr. Gautam Malik

...for the o.p.

1. None appears on behalf of the petitioner when the matter is called on for hearing. No accommodation is sought for. Even on earlier occasion, none represented the petitioner.
2. In the above backdrop, this court would prefer to dispose of the case on merits on the basis of materials available on the record upon hearing the learned counsel for the opposite party.
3. Having heard Mr. Agarwal, learned counsel for the opposite party and upon perusal of the record, it appears the instant revisional application has been filed by the petitioner under Article 227 of the Constitution of India, challenging the impugned order dated April 22, 2024 passed by the learned Judge, 3rd Bench, Presidency Small Causes Court, Calcutta in Ejectment Suit No. 200 of 2020.

4. By the said order, the trial court has rejected the prayer for seeking time for extension to deposit the monthly rent by the tenant for the months of September and October, 2023 even after expiry of the statutory time limit prescribed to deposit as provided under Section 7(1)(c) of the West Bengal Premises Tenancy Act, 1997.
5. The ground for default in payment of rent in time was due to unavoidable circumstances owing to the demise of the family members of the law clerk of the learned Advocate for the defendant/petitioner.
6. The trial court also directed to strike out the defence against the delivery of possession in the suit in an application filed by the plaintiff/opposite party in terms of the provision of Section 7(3) of the West Bengal Premises Tenancy Act, 1997 relying upon decision passed in the case of **Smt. Bina Devi Binani Vs. Ramesh Kumar Gupta in C.O. 1847 of 2013 dated 14.05.2015 passed by this Hon'ble High Court.** The trial court also relied upon other judgments and came to a finding that the time fixed for deposit of rent has been defaulted though it is mandatory under Section 7 (1)(c) of the WBPT Act, 1997.

Therefore, the extension of time to deposit the rent cannot be allowed when there is mandatory provision.

7. The trial court relied the following judgments to come to a finding that provision of Section 7(1) of the WBPT Act, 1997 is mandatory and same is quoted, *inter alia*, hereunder :

*“Taking into note, the present situation involved in the case i.e. failure to deposit monthly rent in time i.e. within 15th day of the succeeding month as required u/s 7(1)(c) of the Act, this Court finds it very much important to refer to a decision of the Hon’ble Court in the case of **Sri Om Prakash Agarwal and Another –vs- Bijay Singh Dugar and Others** in C.O. No. 3360 of 2019 dated 20.07.2023, wherein similar situation arose before the Hon’ble Court and it has been held in clear terms that since Section 7 of the Act provides for a complete mechanism for avoiding eviction on the ground of arrear of rent and also deposit of current rent and legislature had not given any relaxation for extension of the period prescribed u/s 7(1) of the Act, no application either u/s 5 of the Limitation Act or u/s 40 of the WBPT Act, 1997 or even u/s 151 of CPC thereby condoning the delay in making deposit of rent within the statutory period would be maintainable in the eyes of law.*

*In a very recent decision in the case of **Kishan Lal Behani –vs- Shiv Shakti***

Real Estate Pvt. Ltd. in C.O. No. 1385 of 2023 dated 17.08.2023 the Hon'ble Calcutta High Court has been pleased to hold that provision of Section 7(1) is mandatory and should be scrupulously followed by the tenant in order to avoid eviction and relying upon the decision of the Hon'ble Apex Court in the case of ***Chamariya (Supra), Nasiruddin (Supra) and B.P. Khemkha (Supra)*** the Hon'ble Calcutta High Court has been pleased to observe that the ratio of the ***Chamariya (Supra)*** applies to the entire provision of Section 7 of the Act."

8. In view of the above facts and circumstances, this court does not find any infirmity or perversity in the order impugned passed by the trial court.
9. Consequently, the instant revisional application being **C.O. 2189 of 2024** is **dismissed** without any order as to costs.
10. Connected applications, if any, are also, thus, disposed of.
11. Interim Order, if any, stands vacated.
12. All parties are to act in terms of the copy of this order downloaded from the official website of this court.

(Ajay Kumar Gupta, J.)