

06.02.2026
Ct. No. 30
SL No. **38**
MKP

CO/3293/2024

Jugal Kishore Gupta And Ors

Vs.

Banibrata Gupta

Mr. Tarak Nath Halder

.....for the Petitioners

Mr. Subhangi Bhattacharya

.....for the Opposite Party

1. The civil revision has been preferred against an order dated July 26, 2024 passed by the Learned Civil Judge (Junior Division), 2nd Court, Sealdah, District-South 24 Parganas in Title Suit No.153 of 2020.
2. It appears from the impugned order that the Learned Trial Court has rejected the plaintiff/petitioners application challenging the maintainability of the defendants petition under Section 7(1) & 7(2) of the WBPT Act. The Trial Court has also fixed the date for hearing of the said application under Sections 7(1) and 7(2) of the WBPT Act. Being aggrieved, the revisional application has been preferred.

3. On hearing the Learned Counsels for the parties and on perusal of the material on record, it appears that the suit before the Trial Court is a suit for eviction of trespasser and recovery of khas possession.
4. The plaintiff/petitioner submits that it is his suit and as he has not filed the same under the provision of Section 6 of the WBPT Act, 1997, defendants application under Section 7(1) and Section 7(2) of the WBPT Act, is not maintainable in the present case.
5. It is further submitted that in case the defendant makes out a case before the Trial Court that he is a lawful tenant in the suit premises, under Section 2(9) of the WBPT Act, then the plaintiff/petitioners suit shall be liable to be dismissed and the plaintiff/petitioner is willing to take the said risk.
6. Admittedly, the suit is not a suit for eviction filed under Section 6 of the WBPT Act and as such, the provision of Section 7 of the WBPT Act, 1997 is prima facie not applicable in the present case.
7. The order of the Trial Court thus being not in accordance with law, is set aside

for the reason that an application under Section 7(1) and 7(2) of the WBPT Act as filed by the defendant/opposite party herein, is not maintainable in the said suit, which has not been filed under the WBPT Act.

8. Considering that the suit is pending for a long period, the civil revision is disposed of with the direction that the Trial Court shall proceed with the suit expeditiously and make all endeavour to dispose of the same preferably within 1(one) year from the date of this order.
9. **C.O. 3293 of 2024** is disposed of.
10. Applications, if any, connected thereto stand disposed of consequently.
11. Interim order, if any, stands vacated.
12. Photostat certified copy of this order, if applied for, be given to the parties on priority basis upon compliance of all formalities.

[Shampa Dutt (Paul). J]