C.O. 4151 OF 2023

01.10.2026
Sl no. 15
Ct no. 2
P.M.

Sri Paresh Pal.

- Vs –

Smt. Maya Mitra .

Ms. Debjani Sengupta,
Mr. Ratan Pal,
Ms. Paulomi Ghosh
... for the petitioner.
Mr. Sundar Gopal Bhattacharya
... for the opposite party

1. Affidavit of service filed by the petitioner is taken on record.
2. Learned counsel for the private parties has filed opposition. Learned counsel for the petitioner has filed reply. Both opposition and reply is taken on record.
3. Learned counsel for the petitioner submits that the service was effected during the period of the CORONA wherein the delay was condoned by the Apex Court specifically in Suo Motu writ petition No. 3 of 2020.
4. Learned counsel for the petitioner has placed an order dated 2nd January, 2022. Learned counsel submits that even if service is being duly effected without admitting, on 22nd December, 2021. The delay would be condoned by the order of the Supreme

Court in Suo Moto Writ petition No. 3 of 2020.

5. Learned counsel for the opposite party submits that this point was never taken before the learned Trial Court.
6. The Court has considered the submission after bearing both parties. The Court considers that it would be in the interest of justice if the petitioner is taken at liberty to take the issue of delay of condonation. In view of the judgment of the Supreme Court in Suo Moto Writ petition No. 3 of 2020 before the learned Trial Court.
7. In view of the discussion herein above the impugned order dated 5th September, 2023 is set aside. The matter is remanded back to the learned Trial Court for a fresh consideration under Section 7(1) and 7(2) of the West Bengal Premises Tenancy Act.
8. Taking into account the implication of the order of Supreme Court in Suo Moto Writ petition NO. 3 of 2020.
9. Learned Trial Court shall give both parties an opportunity of being heard . All the contentions are left open.

10. It is pertinent to mention that the learned Trial Court will independently examine the applicability of the judgement of the Supreme Court in Suo Moto Writ petition No. 3 of 2020.

10 In the present facts and circumstances of this case it is also pertinent to mention that that this court has not gone into the merits of the case and no expression made herein shall tantamount to be an expression on the merits of the case.

11 The learned Trial Court shall decide the application under Section 7(1) and 7(2) of the West Bengal Premises Tenancy Act expeditiously preferably within a period of eight weeks from the date of communication of this order.

12 Accordingly, the writ petition stands disposed of.

13 All parties shall act on the server copy of this order duly downloaded from the official website of this court.

(Dinesh Kumar Sharma, J.)