

N.22Sl

151/CL

Heard
and
dictated
on
24.03.26
SL-46
Ct-06
(S.R.)

CO 4471 of 2025

Sadhana Saha & Ors.

v.

Sunil Kumar Saha & Anr.

Mr. Shivajit Kumar Das

Mr. Mahesh Kumar Shaw ... for the petitioners.

1. This revisional application assails an order dated December 5, 2025 passed by the learned Judge, 6th Bench, Presidency Small Causes Court, Calcutta in Ejectment Suit No.237 of 2000 whereby the petitioners' application under Section 151 of the Code of Civil Procedure, 1908 seeking permission to deposit rent for the months of May 1992 and June 1992 along with statutory interest in the learned Trial Court for the purpose of getting relief under Section 17(4) of the West Bengal Premises Tenancy Act, 1956, has been rejected.
2. In a suit for eviction being Ejectment Suit No.237 of 2000, the petitioners had filed applications under Section 17(2) and Section 17(2A)(b) of the West Bengal Premises Tenancy Act, 1956 (hereafter the 'said Act of 1956'). The said applications were disposed of by an order dated June 18, 2002 thereby holding that the petitioners were defaulters in respect of three months i.e. May 1992, June 1992 and May 2002 and directing them to deposit the arrears of rent together with the current rent

within July 15, 2002.

3. Such order was not complied with. However, more than 23 years thereafter, on August 14, 2025, the petitioners filed another application before the learned Trial Court praying for recall of the order dated June 18, 2002. Such application was disposed of by the learned Trial Court by an order dated November 7, 2025 thereby observing that the earlier finding in the order dated June 18, 2002 to the effect that the petitioners were defaulters in respect of the month of May 2002 may not have been correct, but at the same time confirming the conclusion as regards default in respect of the months of May 1992 and June 1992. It was also observed by the learned Trial Court that the petitioners may have suffered the finding of default as regards May 2002 owing to the petitioners' failure to produce the original challan before the learned Trial Court during the hearing of the application under Section 17(2) and Section 17(2A) of the said Act of 1956.
4. By the said order dated November 7, 2025, the learned Trial Court rejected the petitioners' application praying for recalling of the order dated June 18, 2002 and directed the petitioners' defence to be struck out for failure to deposit the rent-arrears along with statutory interest in terms of the order dated June 18, 2002.

5. Upon such order being passed, an application under Section 151 of the Code of Civil Procedure, 1908 was filed by the petitioners, seeking permission to deposit rents for the month of May 1992 and June 1992 along with statutory interest thereon for getting relief under Section 17(4) of the West Bengal Premises Tenancy Act, 1956. Such application has been dismissed by the order impugned. Hence the revisional application.
6. Mr. Das, learned advocate appearing for the petitioners strenuously contends that since the learned Trial Court has itself found that the adjudication as regards arrears of rent in respect of the month of May 2002 was incorrect, the learned Trial Court should have appreciated that it would not have been possible for the petitioners to deposit the arrears of rent on the basis of such incorrect adjudication and as such the petitioners ought to have been allowed to deposit the arrears of rent ultimately adjudicated to be due from the petitioners, in terms of the order dated November 7, 2025.
7. Having heard the submission made on behalf of the petitioners and having perused the material on record, this Court does not find any reason to interfere with the order impugned.
8. The order whereby the arrears of rent payable by the petitioners was adjudicated dates back to June

18, 2002. The order was passed in presence of the petitioners. If the petitioners were aggrieved thereby, there was an avenue open to the petitioners to challenge the said order either before this Court or to get the same reviewed by the learned Trial Court, in accordance with law. None of those avenues was availed of by the petitioners. It is settled law that even a wrong order would bind the parties, if the same is not assailed. The order was thus allowed to attain finality.

9. The subsequent application which was taken out after a long hiatus of 23 years does not contain any reason whatsoever to justify the otherwise huge delay in seeking recall of the order. There is no reason why the recall itself was felt necessary. In such view of the matter, the subsequent adjudication undertaken by the Court on the application for recall cannot be taken benefit of by the petitioners. Furthermore in the second round too (i.e. while hearing the recalling application) the learned Trial Court has still found that the petitioners were in arrears for at least two months i.e. May 1992 and June 1992. That being the position, the benefit of protection from striking out of defence in terms of the said Act of 1956 could not have been made available to the petitioners since arrears adjudicated by the order dated June 18, 2002 had not been deposited even till that date i.e.

November 7, 2025.

10. In such view of the matter, the order impugned cannot said to be suffering from any illegality or material irregularity.
11. This Court exercising supervisory jurisdiction under Article 227 of the Constitution of India can interfere only if it finds that the learned Trial Court has either acted without jurisdiction or has failed to exercise jurisdiction vested in it, in accordance with law or has exercised its jurisdiction perversely. The case does not answer any of those situations.
12. For all the aforesaid reasons, the order impugned is not interfered with.
13. CO 4471 of 2025 stands dismissed with the above observations. No Costs.
14. Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible.

(Om Narayan Rai, J.)