

29.01.18

The case record is taken up for passing order in respect of petition u/s.151 of CPC dt.29.4.17 filed by the defendants.

By filing the petition the defendants stated that petitioner /defendants have paid the rents from the month of September, 2016 upto April,2017 for the 13 months @ Rs.138/-p.m total Rs.1794/-. The petitioner due to lack of knowledge did not deposit the rent at till date in spite of filing petition u/s.7(1) and 7(2) of WBPT Act at the time of appearance with and application u/s.5 of Limitation Act.

Plaintiff raised objection against the same.

Considered. Considering that under section 7(1) application is mandatory provision and this court cannot allow any application u/s.151 of CPC against the mandatory provision of law and specifically section 1(b) it is mentioned that such payment or deposit shall be made within 1 month of the service of summons on the tenant or, where he appears in the (suit) without the summons being served upon him, within one month of his appearance but in this suit no such compliance is apparent on the face of the record. Hence this court is not inclined to allow the application.

Hence, it is,

ORDERED

that petition u/s.151 of CPC dt.29.4.17 filed by the defendants is hereby rejected on contest.

To 05.03.18 for hearing petition u/s.7(3) of WBPT Act.

D/c by me

Judge

C.J.(Jr.Divn.)3rd Court