

28/9/18

Today is fixed for hearing of the petition filed by the plaintiff u/s.7(3) of WBPT Act. The defendant has not filed any W.O against the petition. Plaintiff filed hazira. Defendant file one petition for adjournment praying for time as the defendant wants to prefer revision against the order passed by this court dt.29.1.18. The defendant file one advocate's letter however from the letter it is not found that any C.O till file by the defendant. The adjournment petition is rejected.

The petition u/s.7(3) of WBPT ACT is taken up for hearing.

It appears from the record that vide order dt.29.1.18 this court pleased to reject one petition filed by the defendant u/s.151 of CPC dt.29.4.17 . At the time of passing order dt.29.1.18 this court observed that the section 7(1) is mandatory provision and court cannot allow any application u/s.151 of CPC against the mandatory provision of law and specifically mentioned in section 7(1)(b) it is mentioned that such payment or deposit shall be made one month service of summons on the tenant and 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 and same is apparent from the face of the record. Admittedly no arrear of rent as per 7(1)(a) has been paid to landlord or deposited by the defendant in the court . From this order it appears that defendant contention to deposit of rent by filing one petition u/s.151 of CPC has been rejected by this court long before on 29.1.18 and this court fixed for hearing of the petition u/s.7(3) filed by the plaintiff on 5.3.18. In this circumstances on the basis of above observation.

Hence, it is,

ORDERED

that the petition filed by the plaintiff u/s.7(3) of WBPT Act is allowed and the defence against delivery of possession is hereby struck out

To 07/01/19 for hearing of the suit.

D/c by me

Judge

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