

Ej. Suit No. 249 of 2025
CNR No :: WBPS01-00482-2025

Order No. 10
dated 17.06.2026

Today is fixed for hearing of the petition u/s 7(3) of WBPT Act, 1997 filed by the plaintiff and hearing of the petition under Section 7(4) of the WBPT Act, 1997 filed by the defendant.

Both sides have filed haziras through their Ld. Advocates.

Now the petitions are taken up for hearing.

Heard both sides.

Perused the petitions and other materials on record.

Considered.

The plaintiffs have filed the application u/s 7(3) of the Act submitting that the defendant is the monthly tenant under them and are alleged to be the defaulter in payment of rent since October, 2023. They received the summons of this suit on 01.09.2025 and entered appearance through Ld. Advocate by filing vokalatnama on 21.11.2025 but did not file any application u/s 7(1) & 7(2) of the WBPT Act, 1997 nor deposited any arrears of rent and current rent. Hence, non-compliance of the mandatory provision of Section 7(1) & 7(2) of the Act entitles to have the defence of the defendant against the delivery of possession be struck off, and, as such, prays for striking out the defence of the defendants as they have failed to comply the provision of Section 7(1) & 7(2) of the WBPT Act, 1997.

On the other hand, Ld. Advocate for the defendant have filed application u/s 7(4) of the WBPT Act, 1997 and have not denied the landlord-tenant relationship between the parties to the suit but submitted

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that the defendants could not file the application u/s 7(1) & 7(2) of the WBPT Act, 1997 within the prescribed period of limitation because they had been misguided by the Ld. Advocate with whom they were consulting the case. It was further alleged by them that the plaintiff has already taken 10 lakhs from the defendants as Security deposit, arrear rents and rent in advance but never issued any receipt and submit that the said amount be adjusted with the arrear rent and since he has already paid 10 lakhs, they get the relief u/s 7(4) of the Act, thus filed this application u/s 7(4) of the WBPT Act .

In the decision of the Hon'ble Apex Court in the matter of **Bijay Kumar Singh -vs- Amit Kumar Chamaria** reported in (2019) 10 SCC 660, it was held as follows:

Sub section (1) of Section 7 of the WBPT Act relieves the tenant from the ejectment on the ground of non-payment of arrears of rent if he pays to the landlord or deposits it with the Civil Judge all arrears of rent, calculated at the rate at which it was last paid and up to the end of the month previous to that in which the payment is made together with interest at the rate of ten per cent per annum. Such payment or deposit shall be made within one 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.

The Hon'ble Calcutta High Court in the case of **Abhishek Singh and Bholanath Kundu [2022 (3) ICC 37 CAL]** has reiterated the above principle laid down by the Hon'ble Apex Court in the case of Bijay Kumar Singh (supra). In the above case, the Hon'ble Court has held that the provision of section 7 is mandatory and required to be scrupulously followed by the tenant if the tenant has to avoid eviction on account of non payment of arrears of rent under section 6 of the Act.

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Therefore, Section 7(1) of the WBPT Act saddles the tenant with the imperative obligation to pay the landlord all arrears of rent calculated at the rate of which it was last paid and upto the end of the month previous to that in which the payment is made together with an interest at the rate of ten percent per annum within one month of the receipt of summons or within one month of appearance before the court to deposit with the Civil Judge but despite having entered appearance in the suit through his Ld. Advocate on 21.11.2025 the defendant did not comply the provision of section 7(1) of the Act. The allegations that the plaintiff had already taken advance rent and arrear rent and whether that amount could be adjusted could have been discussed and considered later in application u/s 7(2) of the Act but the defendant chose not to take any step u/s 7(1) & 7(2) of the Act rather filed this application u/s 7(4) of the Act without complying the provisions of Section 7(1) & 7(2) of the Act. In fact, besides the mere oral allegations the defendants do not have any documents in support of his allegations.

Section 7(3) provides that if the tenant fails to deposit or pay any amount refer sub-section (1) or sub-section (2) of the Section 7 within the time specified therein or within such extended time, as may be granted, the Court shall order the defence against delivery of possession to be struck out and shall proceed with the hearing of the suit.

The provision of section 7(1) & 7(2) of the Act is absolutely mandatory and the tenant must comply the same in order to get protection u/s 7(4) of the WBPT Act, 1997 and non-compliance of the said provision would attract the application of provision section 7(3) of WBPT Act, 1997 resulting in striking out the defence of the defendants against delivery of possession.

As result, the defendants can be said to be a defaulter in payment of rent and as a natural consequence, the provision of Section 7(3) of the Act would come into operation for non-compliance of the provision of Section 7 (1) of the Act in due time.

Accordingly, the petition u/s 7(4) of the Act filed by the defendants is rejected on contest as non-maintainable and the application u/s 7(3) of the Act filed by the plaintiff is allowed on contest.

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Hence, it is,

ORDERED

That the application u/s 7(4) of the WBPT Act, 1997 is rejected on contest as non-maintainable and the application U/S 7 sub-section (3) WBPT Act is allowed on contest.

Let the defence of the defendants against delivery of possession be struck off under the present suit.

Fix 31.07.2026 for framing of issues.

Dictated and corrected by me:

Judge

Smt. Glady Bomjan

J.O. Code : 01039

Judge, 3rd Bench,

Presidency Small Cause Court,

Calcutta.