

EJECTMENT SUIT NO. 47 OF 2022
C.N.R No. WBPS01-000065-2022

IN THE COURT OF 4TH BENCH, PRESIDENCY SMALL CAUSE COURT,
CALCUTTA
PRESENT: SMT. ARCHITA SEN, JUDGE, 4TH BENCH, PRESIDENCY SMALL
CAUSE COURT, CALCUTTA.

ORDER NO- 26
DATED 21-08-2024:

Today is fixed for passing Order in respect of the petition under section-7(2) of the West Bengal Premises Tenancy Act, 1997 filed by the defendant. Both the parties file separate attendance through their respective Ld. Advocates.

The defendant also files all the challans along with the copy of Order passed by the West Bengal Land Reforms and Tenancy Tribunal in OA No.442 of 2021.

The petition under section-7(2) of the W.B.P.T Act is taken up for passing Order.

Perused the record including the said petition, written objection thereof and the challans filed today.

Considered.

It appears from the record that the plaintiff claimed that he purchased the suit premises on 12/08/2015 but the defendant has failed and neglected to pay rent to the plaintiff for more than three months. The plaintiff has not specifically mentioned any month from which the default started. In absence of any such date this Court can presume the date of purchase of the suit premises by the plaintiff to be the starting point of default. In the instant suit it 12/08/2015. On the other hand the defendant denied that the plaintiff is the landlord in respect of the suit premises as the validity of the deed of conveyance is under challenge in a suit pending before the Ld. Judge, 12th Bench, City Civil Court, Calcutta. No letter of attornment was ever served upon the defendant either by the legal heirs of Bhaskar Ghosh or by the plaintiff. It is further stated by the defendant that he has regularly deposited rent before the Office of Rent Controller in the name of the sister of Bhaskar Ghosh till prior to the appearance in this suit. The plaintiff filed a complaint before the Rent Controller alleging that the sister of Bhaskar Ghosh has not right to receive rent but the Rent Controller rejected the allegation against which an appeal petition was filed by the plaintiff before the West Bengal Land Reforms and Tenancy Tribunal. That appeal petition was also dismissed by holding that this defendant shall go on deposit rent before the Rent Controller, Kolkata as before until the property is partitioned by metes and bounds and the ownership of the tenanted premises is determined. After appearance in the suit the defendant is regularly depositing rent before the Court since March, 2022.

The plaintiff filed written objection against the petition under section-7(2) of the Act denying all the contentions of the defendant. It is stated by the plaintiff that the defendant cannot challenge the title of the plaintiff in respect of the suit premises.

After going through the application of the defendant, the written objection filed by the plaintiff against such petition and the challans filed by the defendant it can be adumbrated that the amount of rent is not disputed between the parties. So far as the relationship of landlord and tenant between the plaintiff and defendant is concerned, this Court does not have the scope to go into the ownership of the suit premises or the relationship of landlord and tenant between the parties while disposing of the petition under section 7 (2) of Act. The said provision is invoked by the tenant only when there is some dispute regarding the amount of rent, so that the amount of rent may be determined by the Court. So without going into the dispute regarding the relationship of landlord and tenant between the parties, which can be decided after evidence of the parties are adduced, this Court confines itself only to the determination of the arrears of rent due to the plaintiff. As the plaintiff purchased the suit premises on 12/08/2015 the rent is payable to the plaintiff from August, 2015. In absence of any specific mentioning of date from which the default started, this Court can presume that the defendant has defaulted in the payment of rent since August, 2015. But from the Order passed by the West Bengal Land Reforms and Tenancy Tribunal it appears that the defendant was permitted to deposit rent in the name of the sister of Bhaskar Ghosh before the Rent Controller Kolkata. There is no hint within the record that the Order passed in OA no.442 of 2021 has been challenged before any forum. So this Court cannot consider the validity of the deposits for the period of August, 2015 to February, 2022 made before the Rent Controller. After appearance of the defendant in this suit, he is regularly depositing rent which will reflect from the Court deposit challans filed by the defendant. All the deposits are made within statutory period.

Accordingly, as the defendant has duly complied with the order of the Court, this Court can safely hold that the defendant is not the defaulter.

Hence it is

O R D E R E D.

That the petition under section-7(2) of the West Bengal Premises Tenancy Act, 1997 filed by the defendant is disposed of on contest without cost.

The defendant is directed to go on paying the current rent within the time specified in section-7(1)(c) of the W.B.P.T Act.

To 05/11/2024 for hearing of the petition dated 12/09/2022.

Typed, Corrected and Printed by me.

Judge, Bench-4
PSCC, Calcutta
J.O Code WB01174

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