

**Ejectment Suit No. 47 of 2022**  
**C.N.R No. WBPS01-000065-2022**

**Order No.30**

**Dated 06.03.2025 :**

Today is fixed for hearing of the petition dated 30.08.2024 filed by the plaintiff with a prayer for recalling the Order No.26 dated 21.08.2024 vide which the petition under section 7(2) of the Act was disposed of. Both the parties file separate attendance through their respective Ld. Advocates.

Now the petition dated 30.08.2024 is taken up for hearing.

Heard the Ld. Advocates for both sides in full. Perused the record.

Considered.

No written objection has been filed by the defendant against the petition dated 30-08-2024.

The instant petition states that during the hearing of the petition under section 7(2) of the Act the defendant deliberately suppressed the material facts. It was the petition of the defendant and the defendant was under obligation to place all the relevant facts before the Court but the defendant played fraud with the Court by not disclosing the correct facts. The plaintiff further stated that he preferred an appeal before the L.R.T.T against the Order of the Rent Controller but in the said Appeal the Order of the Rent Controller was not modified or disturbed. Being aggrieved by the said Order the plaintiff moved before the Hon'ble High Court Calcutta which is numbered as W.P.L.R.T No.73 of 2024. The copy of the said petition was served upon the defendant but in spite of that the defendant did not disclose the fact that the Order of the Tribunal has been challenged before the Hon'ble Court. So the Order no.26 dated 21.08.2024 shall be recalled for reconsideration in the light of the fact that the Order of the Tribunal has been challenged before the Hon'ble Court.

On careful perusal of the Order no.26 dated 21.08.2024 it appears that this Court has observed in the body of the Order that "there is no hint within the record that the Order passed in O.A No.442 of 2021 has been challenged before any forum". This observation of the Court ignited the plaintiff to file the instant application. At the foremost it should be stated that no doubt the petition under section 7(2) of the Act belongs to the defendant but it was not heard in the absence of the plaintiff. Being the adversary the plaintiff was also under obligation to disclose that he preferred an application before the Hon'ble High Court Calcutta challenging the Order of the Tribunal. The plaintiff cannot avoid that responsibility. In fact the plaintiff had the opportunity to intimate the Court by filing necessary document about the application before the Hon'ble High Court Calcutta, even on 21.08.2024. It is stated on behalf of the plaintiff that the Ld. Conducting Advocate of the plaintiff could not attend the Court on 21/08/2024 because of her illness but the plaintiff was not unrepresented on that day because the plaintiff himself stated that Mr. Kausick Jana, Advocate appeared for the plaintiff on that day. So the liability of not disclosing about the pendency of W.P.L.R.T No.73 of 2024 cannot be fixed on the defendant only. The plaintiff was also responsible for such non disclosure. This Court is not inclined to recall it's Order which was passed on merit only on the ground that the fact of pendency of W.P.L.R.T No.73 of 2024 was suppressed before the Court. Apart from that the existence of the application being numbered as W.P.L.R.T No.73 of 2024 will not be nullified because of one observation made by this Court on the basis of the documents available in record on that particular date. If the plaintiff of this suit is able to get a favourable Order before the Hon'ble High Court Calcutta which is also beneficial for him in this suit, he is at liberty to bring that matter in Judicial notice of this Court.

Accordingly the petition dated 30.08.2024 is rejected on contest and without any order as to cost.

Fix 29-04-2025 for framing of issue.

Typed, Corrected and Printed by me.

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

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