

EJECTMENT SUIT NO. :- 22 OF 2018
(CNR No. WBPS01-000072-2018)
(JO CODE No. WB01229)

Order No. - 41
Dt. 08.02.2023

Today is fixed for hearing of argument in respect of petition under Section 7(2) of W.B.P.T. Act.

Defendants take no steps.

Plaintiffs file hazira.

None appears on behalf of the defendants on several calls.

Heard the argument on behalf of the plaintiffs in full.

Now the case record is fixed for passing necessary order.

D/C by me.

Judge, Bench - II,
P.S.C. Court, Calcutta.

Judge, Bench - II,
P.S.C. Court, Calcutta.

Later

Now the case record is taken up for passing necessary order.

It appears from the record that the plaintiffs have filed the instant suit against the defendants on the grounds of default and other grounds. It is the contention of the plaintiffs that they are the joint owners of the land and building situated at premises no. 52, 52/1, Rafi Ahmed Kidwai Road, Kolkata – 700 016 and Dr. Biswa Ranjan Dey was a monthly tenant in respect of one shop room on the ground floor situated at premises no. 52, 52/1, Rafi Ahmed Kidwai Road, Kolkata – 700 016 at a monthly rental of Rs. 100/- per month according to English Calendar month and the defendants being the legal heirs of Biswa Ranjan Dey inherited the said tenancy and the defendants are defaulter in respect of making payment of rent since March – 2014.

It also appears from the case record that the defendants have made appearance in this case on 06.03.2018 and had filed two separate applications under Section 7(1) and 7(2) of the W.B.P.T. Act and thereafter the application

under Section 7(1) of W.B.P.T. Act was allowed by the Ld. Chief Judge, Presidency Small Causes Court, Calcutta directing the defendants to deposit the admitted arrear of rent along with 10% interest and also directed to deposit the current rent month by month, after that at the time of hearing of application under Section 7(2) of W.B.P.T. Act, the defendant Papiya Dey adduced herself as A.P.W-1 and no witness was produced on behalf of the plaintiffs in respect of application under Section 7(2) of W.B.P.T. Act.

On further perusal of the evidence of A.P.W-1 and also perusal the materials on record, it appears that A.P.W-1 has admitted that they have not deposited any rent before the Court, though the Court has been ordered to deposit the rent.

It is settled principle of law that when the tenant appears in an eviction suit and filed the application under Section 7(1) and 7(2) of W.B.P.T. Act and after being directed in respect of petition under Section 7(1) of W.B.P.T. Act to deposit the admitted arrear rent and also the current rent but he does not comply the same then the application under Section 7(2) of W.B.P.T. Act is not at all maintainable in the eye of law.

Considering the above made observation, I am of considered view that the defendants did not comply the order passed in respect of application under Section 7(1) of W.B.P.T. Act and no rent was deposited and as such the instant application under Section 7(2) of W.B.P.T. Act is not at all maintainable in the eye of law.

Defendants are hereby declared as defaulter for making payment of rent.

The instant petition under Section 7(2) of W.B.P.T. Act is hereby disposed of.

To 03.04.2023 for framing of issues.

[Dictated and corrected by me]

Sd/-

(Manabendra Nath Ghosh)
Judge, Bench – II,
Presidency Small Cause Court,
Calcutta.

Sd/-

(Manabendra Nath Ghosh)
Judge, Bench – II,
Presidency Small Cause Court,
Calcutta.