

EJECTMENT SUIT NO. 347 of 2019
C.N.R No. WBPS01-000878-2019

IN THE COURT OF 4TH BENCH, PRESIDENCY SMALL CAUSE
COURT, CALCUTTA

PRESENT: SMT. ARCHITA SEN, JUDGE, BENCH-4, PRESIDENCY
SMALL CAUSE COURT, CALCUTTA.

ORDER NO- 33
DATED 20.08.2024:

Today is fixed for filing hearing of the petition dated 22.09.2021 under section-151 of the C.P.C filed by the defendant. Both the parties file separate attendance through their respective Ld. Advocates. One printed copy of Order passed by the Hon'ble Apex Court in connection with Special Leave Appeal No.9672 of 2024 is filed by the plaintiff by way of firisti.

None moved for the defendant on repeated calls.

The petition dated 22.09.2021 is taken up for hearing.

Heard the Ld. Advocate for the plaintiff. Perused the record.

Considered.

It is submitted on behalf of the plaintiff that the application under section-7(1) of the West Bengal Premises Tenancy Act was allowed by this Court. The plaintiff preferred Revision application before the Hon'ble High Court, Calcutta against the Order of this Court and the Hon'ble Court was pleased to set aside the Order passed by this Court. Against that Order passed by the Hon'ble High Court, Calcutta the defendant preferred a Special Leave petition for appeal before the Hon'ble Supreme Court which has been dismissed by the Hon'ble Apex Court. So now the instant petition has become redundant because the provision of section 7(3) of the Act is attracted in this suit.

The petition dated 22.09.2021 contemplates an Order calling for the record of Ejectment Suit No.4536 of 2014 and Ejectment Suit No.4537 of 2014 which are pending before the Ld. Judge, 5th Bench, Presidency Small Causes Court, Calcutta. The reason cited by the defendant is that the plaintiff is in the habit of filing frivolous suits against the defendant with an intention of eviction. For that the case records of those two suits are required for the proper adjudication of this suit. This Court does not find any necessity to stall the trial of those two suits by calling for the case records of those two suits when the defendant has ample opportunity to apply for certified copies of every documents including the plaint and written statement of those suits and filed the certified copies before the Court for convincing the Court on the point that the plaintiff is in the habit of filing frivolous suits. If the intention of the defendant is to initiate analogous hearing of all the suits filed by the plaintiff against the defendant, pending before different Bench of Presidency Small Causes Court, Calcutta, then this is not the proper forum.

Accordingly it is

O R D E R E D

That the petition dated 22.09.2021 under section-151 of the C.P.C filed by the defendant is rejected but without any order as to cost.

Fix 03/10/2024 for hearing of the petition under section-7(2) of the W.B.P.T Act and framing of issues.

Typed, Corrected and Printed by me.

Judge, Bench-4
P.S.C.C, Calcutta
J.O Code WB01174

Judge, Bench-4
P.S.C.C, Calcutta
J.O Code WB01174

LATER :

ORDER NO- 34
DATED 20.08.2024:

It is evident from the record that the Order passed by this Court under section 7 (1) of the Act has been set aside by the Hon'ble High Court Calcutta on the ground of delay. So this Court thinks that the petition under section 7 (2) of the Act shall be disposed of.

The record is taken up for hearing of the petition under section 7 (2) of the Act filed by the defendant. The defendant filed the application under section 7 (1) and 7 (2) of the Act along with of petition under section 5 of the Limitation Act for condonation of delay in filing those two applications. The Ld. Chief Judge vide Order no. 17 dated 13/12/2021 condoned the delay and permitted the defendant to deposit admitted arrears of rent. But that Order has been set aside by the Hon'ble Court. In view of the Order passed by the Hon'ble Court this Court is inclined to hold that the defendant has not complied the provision of section 7 (1) of the Act, for which there is no question of getting relief under section 7 (2) of the Act.

Accordingly it is

O R D E R E D

That the petition dated 12/12/2019 under section-7 (2) of the W.B.P.T. Act filed by the defendant is rejected but without any order as to cost.

To date for framing of issues.

Typed, Corrected and Printed by me.

Judge, Bench-4
P.S.C.C, Calcutta
J.O Code WB01174

Judge, Bench-4
P.S.C.C, Calcutta
J.O Code WB01174