

EJECTMENT SUIT NO. 106 OF 2022
C.N.R No. WBPS01-000161-2022

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- 27

DATED 28.04.2025:

Today is fixed for steps by the plaintiff and hearing of the petition dated 13.03.2025. Both the parties file separate attendance through their respective Ld. Advocates.

The plaintiff has already taken the steps by filing the amended plaint.

Now the petition dated 13.03.2025 is taken up for hearing.

Heard the Ld. Advocates for both sides.

Perused the record including the said petition. No written objection is filed by the plaintiff against the petition dated 13.03.2025 filed by the defendant.

Considered.

The instant petition states that the defendant is depositing the rent of the suit premises month by month as per the Order of the Court through the Law Clerk and the rent has been paid till November, 2024. But due to the *bona fide* mistake of the said Law Clerk the rent could not be deposited since December, 2024. So he prayed for permission to deposit the rent for the month of December, 2024, January, 2025 and February, 2025 and thereafter the subsequent months by condoning the delay.

Ld. Advocate for the plaintiff raised strong objection and submitted that this Court has no jurisdiction to extend the period laid down under section-7(1)(c) of the West Bengal Premises Tenancy Act, 1997.

The record reveals that the defendant filed the petition under section- 7(2) of the West Bengal Premises Tenancy Act, 1997 which was adjudicated by this Court holding that the defendant is a defaulter in the payment of rent for the period of July, 1999 to December, 2022. The defendant claimed that he complied the Order of the Court, though there is no documents within the record showing the compliance, but the rent for the month of December, 2024, January, 2025 and February, 2025 could not be deposited due to *bona fide* mistake of the clerk attached to the Ld. Advocate. As per the provision of section-7(1)(c) of the Act the rent for the month of December, 2024 should have been deposited within 15th January, 2025. It is submitted by the Ld. Advocate for the defendant that the litigant shall not suffer because of the fault on the part of the Law Clerk and it is the view of the Hon'ble Apex Court. In this regard this Court intends to mention one of the precedent where the fault of the Law Clerk was condoned by the Hon'ble Apex Court. In the case of **Santosh Mehta Vs. Om Prakash and Others, AIR 1980 SC 1664** the Hon'ble Court condoned the delay considering the fault of the law clerk. In that case the amount of rent was paid to the Ld. Advocate by

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cheque but the rent was not deposited and when it came within the knowledge of the appellant she lodged a complaint against the said Ld. Advocate before the Bar Council of Delhi. It is the responsibility of the defendant to deposit the rent in due time and it does not end by handing over the money to the law clerk. In the instant petition the defendant has not even stated about the date on which he came to know that the rent for the month of December, 2024, January, 2025 and February, 2025 have not been deposited.

The provision of section-7 of the said Act is strict enough so far as the period prescribed for the compliance of the said provision. Section-7(1)(c) of the Act states that the tenant shall continue to pay to the landlord or deposit with the Court, month by month, by the 15th of each succeeding month, a sum equivalent to the rent at that rate. There is no provision to extend the period specified under section-7(1)(c) of the Act. The statute has given the power to the Court to extend the period of depositing the amount decided by the Court under section-7(2) of the Act for two months only. Section-7(3) of the Act enumerated the consequence of non compliance of the provision under section-7(1) and 7(2) of the Act. So after going through all the aforesaid provisions, there is no doubt that the Court has no power to extend the time for depositing the admitted arrears of rent or the monthly rent under section-7(1) of the Act. It is only by virtue of the proviso attached to section-7(2) of the Act, the Court can extend the time for payment of the amount adjudicated by the Court under section-7(2) of the Act only once, that too for a period not exceeding two months.

Under the present Act there are some statutory obligations which are to be maintained by landlord and tenant respectively. As the landlord pursuant to the provisions provided under the West Bengal Premises Tenancy Act, 1997 would not be entitled to evict the tenant without due process of law and that too subject to the proof of the grounds of eviction, similarly for statutory violation in respect of the obligations to be discharged by the tenant, if any right accrues in favour of the landlord, the tenant would be bound to surrender to such right. If any such right has been accrued in favour of the landlord, by operation of law as provided by the statute, due to the violation of statutory obligation by the tenant, the same shall not be robbed away in exercise of judicial discretion in the name of interest of justice by extending the time for depositing the rent. In the instant suit the rent has not been deposited since December, 2024 and due to violation of the provision under section-7(1)(c) of the Act, a right has already been accrued to the plaintiff under section-7(3) of the Act. This Court has no scope to extend the time prescribed in section-7(1)(c) of the Act by exercising its inherent power. It is pertinent to mention the observation of the Hon'ble High Court, Calcutta in **Jaladeb Gunchait @ Jaladev Gunchait Vs. Sankar Kumar Das, C.O. 3971 of 2016** wherein the Hon'ble Court held that the Court has no jurisdiction to exercise any discretion to extend the time to deposit the current rent. Subsequently the same observation has been reiterated in the case of **Kabita Biswas and Others Vs. Sadhan Dasgupta, C.O. 1170 of 2020**. Apart from that it was held in the case of **Nasiruddin and Others Vs. Sita Ram Agarwal, AIR 2003 SC 1543** that when the special Act provides for extension of the time or condonation of default, the Court possesses the power thereof. But where the Statute does not provide either for extension of time or to condone the default in depositing rent within the stipulated time, the Court does not have the power to do so. In **Bijay Kumar Singh Vs. Amit Kumar Chamariya, 2019(10) SCC 660** the Hon'ble Apex Court expressed the similar view while taking note of the aforesaid precedent. In absence of any such provision under the West Bengal Premises Tenancy Act, 1997 the Court did not have the power to extend the time for depositing rent. The Hon'ble Apex Court has recently observed in the case of **Debasish Paul and Another Vs. Amal Boral, (2024) 2 SCC 169** that generally the provision of section-5 of the Limitation Act is applicable to the provision of the present Act in view of section-40 of the Act but if a lesser time period is

specified as limitation in the Act, then the provisions of Limitation Act can not be used to expand the same. In the

Accordingly, this Court can safely hold that the petition dated 13.03.2025 has no merit and deserves to be rejected.

Hence it is

O R D E R E D.

That the petition dated 13.03.2025 under section-151 of the Code of Civil Procedure, 1973 filed by the defendant is rejected on contest without cost.

The petition under section-151 of the Code of Civil Procedure, 1973 is thus disposed of.

To 10-07-2025 for peremptory hearing.

Typed, Corrected and Printed by me.

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

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