

Ejectment Suit No. 86 of 2018
C.N.R No. WBPS01-000238-2018

Order No.40

Dated 11.03.2025:

Today is fixed for peremptory hearing. Both the parties file separate attendance through their respective Ld. Advocates. The plaintiff is present and files written examination in chief on affidavit form. The defendant files Court deposit challans by way of firisti.

The record reveals that the defendant has filed a petition dated 15.01.2025 which is lying with the record. The said petition is required to be disposed of first.

The record is taken up for hearing of the petition dated 15.01.2025 filed by the defendant.

Heard the Ld. Advocates for both the parties. Perused the case record.

Considered.

Though the prayer portion of the instant petition is not clear to the Court but what can be adumbrated from the body of the petition is that on 27.11.2024 one petition for adjournment was filed on behalf of the defendant on the ground of illness of the Advocate of the defendant but that petition was rejected and the Court disposed of the petition under section-7(2) of the Act with a direction upon the defendant to pay the arrears of rent as calculated by the Court. But as the previous Ld. Advocate of the defendant has retired from this suit, some documents and challans got misplaced, for which the defendant could not file the same in time. Now the defendant filed this petition with a prayer for extension of the time to comply the provision under section-7(2) of the Act by filing those misplaced challans. In fact the defendant is praying for an Order permitting the defendant to file the challans and reconsider the petition under section-7(2) of the Act on the basis of the challans by recalling the Order dated 27.11.2024.

But on perusal of the Order dated 27.11.2024 it appears that the defendant was held to be the defaulter for 92 months as in spite of admitting that the Corporation tax and service tax are due from him, he did not pay the same along with the amount of rent, for which the entire deposit made by him before the Rent Controller and before the Court till date were held to be invalid. Apart from that though the defendant stated that he tendered rent to the plaintiff from April, 2017 to August, 2017 but the same was refused, but he could not produce any documents of refusal. Not only that as the rent for the said period was not received by the plaintiff, it was within the knowledge of the defendant that the rent of that period was not realized by the plaintiff. But he has not prayed for any Order for depositing the arrears of rent for that period under section-7(1) of the Act. For these reasons the defendant was held to be the defaulter; not for the non filing of the challans. So this Court thinks that the instant petition has no merit and deserves to be rejected.

Fix 19-05-2025 for peremptory hearing.

Typed, Corrected and Printed by me.

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

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