

EJECTMENT SUIT NO. 221 OF 2023
C.N.R No. WBPS01-000476-2023

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- 12
DATED 25-11-2024:

Today is fixed for hearing of the petition under section-7(2) of the W.B.P.T Act, 1997. Both the parties file separate attendance through their respective Ld. Advocates.

Ld. Advocate for the defendant submitted that there is a petition under section-151 of the C.P.C which is pending for disposal.

The record is taken up for hearing of the petition under section-151 of the C.P.C.

Heard both sides. Perused the record including the said petition and the written objection filed by the plaintiff.

Considered.

The petition under section-151 of the C.P.C contemplates an Order permitting the defendant to incorporate certain facts in the petition under section-7(2) of the Act. It is submitted on the part of the defendant that the amount of rent pleaded by the plaintiff is not correct. Originally one Gopal Chandra Shaw was the tenant under Tulsi Charan Paul and Prem Chand Paul in respect of the entire first floor of the suit building. On the demise of Tulsi Charan Paul, the said Prem Chand Paul used to collect rent amounting to Rs.6.25/- in respect of his share from Gopal Chandra Shaw and the tenant used to deposit the rest amount of rent at the rate of Rs.19/- before the Court in respect of the 3/4th share of property of Tulsi Charan Paul. Subsequently on the death of the original tenant the defendant along with the other legal heirs of Gopal Chandra Shaw have become the tenants in common. So they are the tenants in respect of the entire first floor of the suit building at a monthly rent of Rs25/-; not Rs.19/-.

The plaintiff filed written objection against the petition under section-151 of the C.P.C denying all the contentions of the defendant. Ld. Advocate for the plaintiff submitted that there is no scope of amendment of the petition under section-7(2) of the Act. Thus he prayed for rejection of the instant petition.

True that there is no provision within the Code of Civil Procedure to amend any petition or application. But it is the mandate on the defendant/tenant to file the petition under section 7(2) of the Act within the period prescribed by the Statute, otherwise the said petition will be liable to be rejected. So there is no scope to the defendant to file the petition under section-7(2) of the Act afresh. On the other hand the facts as mentioned in the instant petition appear to be primarily relevant for the disposal of the petition under section-7(2) of the Act. It further appears that the defendant has mentioned these facts in the written statement also. It is not that the defendant is attempting to introduce a new story by filing the instant petition. So this Court thinks that this is a fit case to exercise the inherent power under section-151 of the C.P.C by permitting the defendant to incorporate the proposed facts within the petition under section-7(2) of the Act as it will help in the effective adjudication of the amount of rent payable.

Hence it is

O R D E R E D.

That the petition under section-151 of the C.P.C filed by the defendant is allowed on contest without cost.

The defendant is permitted to incorporate the proposed facts in the petition dated 06.05.2024 under section-151 of the C.P.C and file the corrected and modified petition under section-7(2) of the Act within the next date positively.

The plaintiff is at liberty to file additional written objection/reply against the modified petition under section-7(2) of the Act within 30 days from the date of receipt of the copy of modified petition under section-7(2) of the Act.

The petition dated 06.05.2024 is disposed of on contest.

To 22/01/2025 for steps by the defendant.

Typed, Corrected and Printed by me.

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

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