

Ej. Suit No. 125 of 2025
CIS No. WBPS01-000278-2025

Order No. 11

17.06.2026

Today is fixed for hearing of the application under Section 7(2) and 7(3) of the Act, written objection, if any, in the meantime.

Plaintiff present by filing hazira.

Defendant does not take any step.

Now the record is taken up for hearing.

Heard. Perused.

Considered.

The plaintiffs have claimed that the defendant is a tenant under them in respect of the suit premises at the monthly rent of Rs. 500/- payable according to English Calender month and has alleged that he is a defaulter in payment of rent from the month of July, 2021. It is submitted that the defendant has not deposited the correct amount of interest and also did not deposited the arrear rent within the statutory period as provided under the provision of Section 7(1) of the WBPT Act, 1997. Thus, his defence is liable to be struck-off for non-compliance of the mandatory provision.

The defendant has filed the application u/s 7(2) of the WBPT Act, 1997 claiming that the landlord of defendant namely Somnath Das issued rent receipt in favour of the defendant upto the period for July, 2022 by issuing rent receipt. Inadvertently he issued the rent receipt for July, 2021 to July 2022 in the incorrect name of the defendant as “Debendra Nath Sharma” instead of Dharmendra Sharma and the rent has been paid by the defendant upto July, 2022.

The defendant further submits that there a dispute regarding the landlord-tenant as he is a tenant under the Estate of Late Probodh Chandra Das or Somnath Das and thus has to be adjudicated by the Court. There is also dispute regarding the period of default.

It appears that the summon was served upon the defendant on 27.05.2025 through Postal service as per the tracking report. The summon sent through court bailiff returned with the report that the defendant was personally not found at the address and the person present claiming himself to be the agent of the defendant refused to receive the summon on his behalf and also stopped the bailiff from affixing the summon at the outer door of the house hence could not be served.

The defendant entered appearance in the suit on 18.06.2025 and filed an application under Section 7(1) of the Act, 1997 for

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permission to deposit the rent from the month of July, 2025 as current month rent and also sought permission to deposit the arrear rent from the month of August, 2022 to June, 2025. The Ld. Chief Judge, Presidency Small Cause Court, Calcutta vide order dated 18.06.2025 had allowed such prayer of the defendant with the direction to deposit the amount as prayed within the time frame as prescribed under the law.

The defendant is absent this day hence there are no documents which could help ascertain that the defendant has complied the said order or deposit the arrear rent and the monthly rent starting from July, 2025 within the time frame. Though the defendant has challenged his relationship with the plaintiff as landlord and tenant, he did not appear this day to place his submission supporting his such contention.

Section 7(2) of the Act cannot be independent of the 7 (1). Without complying the provisions of section 7(1) of the Act, within the time limit prescribed under Section 7, i.e., one month from the date of receipt of summons 27.05.2025, the defendant can not avail the opportunity under section 7(2) of the Act. This compliance is a mandatory provision to be fulfilled by any tenant, who seeks protection from eviction under any of the grounds mentioned in Section 6 of the said Act. Hence the provision of Section 7(2) of the Act shall not come into application unless the provision of Section 7(1) of the Act is fulfilled. Thus, the application u/s 7(2) of the WBPT Act, 1997 is found to be not maintainable in the eyes of law.

Section 7(3) provides that if the tenant fails to deposit or pay any amount refer sub-section (1) or sub-section (2) of the Section 7 within the time specified therein or within such extended time, as may be granted, the Court shall order the defence against delivery of possession to be struck out and shall proceed with the hearing of the suit.

The provision of section 7 is absolutely mandatory and the tenant must comply the same in order to get protection u/s 7(4) of the WBPT Act, 1997 and non-compliance of the said provision would attract the application of provision section 7(3) of WBPT Act, 1997 resulting in striking out the defence of the defendant against delivery of possession.

As result, the defendant can be said to be a defaulter in payment of rent and as a natural consequence, the provision of Section 7(3) of the Act would come into operation for non-compliance of the provision of Section 7 (1) of the Act in due time.

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Accordingly, the petition u/s 7(2) is rejected as non-maintainable and the application u/s 7(3) of the Act filed by the plaintiff is allowed exparte.

Hence, it is,

ORDERED

That the application u/s 7(2) is rejected as non-maintainable and the application U/S 7 sub-section (3) WBPT Act is allowed on ex parte.

Let the defence of the defendant against delivery of possession be struck off under the present suit.

Fix 18.08.2026 for framing of issues.

Dictated and corrected by me:

Judge

Smt. Gladys Bomjan

J.O. Code : 01039

Judge, 3rd Bench,

Presidency Small Cause Court,

Calcutta.