

Ej. Suit No. 521 of 2015
CNR No :: WBPS01-000379-2015

Order No. 64
dated 10.09.2025

Today is fixed for passing order in respect of the petition u/s 7(3) of WBPT Act, 1997 filed by the plaintiff dated 16.05.2025.

Parties have filed haziras through their respective Ld. Advocates.

Plaintiff has filed an application u/s 7(3) of the WBPT Act, 1997 submitting before the Court that the instant suit had been dismissed for default and later the suit was restored vide order dated 06.03.2024 passed in Misc. Case No. 91 of 2021. the parties have been directed to appear in the instant on 24.04.2024 and thereafter the defendant filed an application u/s 151 of the CPC on 16.07.2024 seeking permission to deposit the rent for the month of June, 2024 onwards. This Court vide order dated 30.11.2024 rejected such application of the defendant on contest and in view of the said order for non-compliance of the provision of Section 7(1)(c) of the WBPT Act, 1997, the defence of the defendant should be struck off.

The Ld. Advocate for the defendant by filing his written objection contended that the defence of the defendant cannot be struck out under Section 7(3) of the said Act of 1997 in case of the post suit default. The default herein is the post suit default and section 7(3) of the Act is applicable only in cases of pre suit default. Thus, prays for rejection of the application.

The plaintiff by filing the instant application states that the instant suit has been brought by him against the defendant seeking his eviction under the provision of WBPT Act, 1997 in which one of the grounds for eviction is default of payment of rent. The defendant appeared in the suit and filed an application U/S 7(1) and U/S 7(2) of the WBPT Act, 1997 and after contested hearing of the said application, the defendant had been given permission to deposit the current rent and was hold not to be a defaulter in payment of rent. Later, the suit was dismissed for default and same was restored on 06.03.2024 with a direction to the parties to appear in the instant suit on 22.04.2024. The defendant thereafter filed the application u/s 151 of the CPC on 16.07.2024 seeking permission to deposit the rent for the month of June, 2024 onwards. After a contested hearing this Court rejected such prayer of the defendant vide order dated 30.11.2024 holding that defendant did not deposit the current monthly rent for the month of April, 2024 and for subsequent months within 15th of succeeding month in terms of the provision of the Section 7(1) of the WBPT Act, 1997. The said order is still in force having not challenged in the Higher Forum.

It is pertinent to mention here that this situation attracts the provision as laid down under Section 7 (3) of the West Bengal Premises Tenancy Act, 1997 which states that in case of non compliance of sub-section (1) or sub-section (2), an order for striking out the defence against delivery of possession shall be passed.

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In the instant case it is found that the defendant tenant failed to comply the provision of section 7(1)(c) of the Act, 1997 and non compliance of the provisions of section 7 of the WBPT Act, 1997, the application of provision section 7(3) of WBPT Act, 1997 would be automatically attracted, resulting in striking out the defence of the defendant against delivery of possession.

Hence, it is,

ORDERED

That the application U/S 7 sub-section (3) WBPT Act is allowed on contest. Let the defence of the defendant against delivery of possession be struck off under the present suit.

Fix 31.10.2025 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.