

**EJECTMENT SUIT NO. :- 140 OF 2023**  
**(CNR No. WBPS01-000319 -2023)**  
**(JO CODE No. WB01165)**

**Before Smt. P. Shukla, Ld. Judge, 2nd Bench.**

Order no. - 10  
Dt. 05.10.2024

Today is fixed for hearing of the petition under Section 7(1) of W.B.P.T. Act and under Section 5 of the Limitation Act filed by defendant.

Defendant files hazira.

Heard the Ld. Advocate who submitted that defendant is not a defaulter in payment of the rent since the month of February, 2008 and he has paid the rent at the rate of Rs.115/- per month upto the month of December, 2020 to the landlady but thereafter, have representative did not collect the rent since the month of January, 2021.

Therefore, by filing this petition, defendant is willing to deposit the admitted arrear of rent at the rate of Rs. 115/- for total 32 months with interest amount of Rs. 4,050/-.

Further, defendant has also filed another petition under Section 5 of the Limitation Act.

It is submitted by defendant that the summon was served upon him on 26.06.2023 and the said application was filed on 30.08.2023 due to delay because of her husbands illness in Bihar.

Defendant prays for condonation of delay.

Heard. Considered.

Perused the entire documents available on the case record.

The court of the view that in accordance of Section 7(1)(b) of the W.B.P.T. Act, it is settled law that such payment or deposit shall be made within one month of the service of summons on the tenant or, where he appears in the suit without the summons being served upon him, within one month of his appearance.

Further, it is also settled law that the relief could also not be grant under Section 5 of the Limitation Act.

It is beyond the legal exercise of this court to extent the limitation period of one month by allowing the petition under Section 5 of the Limitation Act.

Hence, it is

**ORDERED**

that the petition under Section 7(1) of W.B.P.T. Act and under Section 5 of the Limitation Act filed by defendant are rejected at once.

Fix 04.01.2025 for framing of issues.

D/C by me:

Sd/-

Judge, Bench – II,  
Presidency Small Cause Court,  
Calcutta.

Sd/-

Judge, Bench – II,  
Presidency Small Cause Court,  
Calcutta.