

EJECTMENT SUIT NO. :- 180 OF 2024
(CNR No. WBPS01-000354-2024)
(JO CODE No. WB01165)

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

Order no. - 18
Dt. 21.04.2026

The record is taken up for passing exparte judgment.

The present suit is filed by plaintiff for eviction and recovery of khas possession against the defendant.

Inspite of giving intimation of the defendant about the institution of the suit, defendant did not turn up to contest the same.

Thereafter, the record is fixed for exparte hearing against the defendant by Order no. 7 dated 10.02.2025.

FACTUAL MATRIX :-

The plaintiff's case, in brief, is that the plaintiffs submitted that Sattya Gopal Pal since deceased was the original premises tenant in respect of all that piece and parcel of one room (for residential purpose) situated on the 1st floor of G + 1 construction comprised in K.M.C. Holding no. 12, Tansuk Lane, P.O. - Kalakar Street, P.S.- Posta, Kolkata - 700007 i.e. the suit premises described in the schedule to the plaint at a rental of Rs.33/- per month payable according to English Calendar.

The plaintiffs further submitted that the said Sattya Gopal Pal was inducted by the original landlords Keshri Devi and Lilabati Devi in respect of the suit premises. It is pertinent to mention here original inducting landlords namely Keshri Devi died on 7th day of December, 2005 leaving behind her three sons namely Raju Sonkar, Shyam Sonkar and Ram Sonkar (plaintiff no. 5) as her legal heirs and successors and out of the said three sons Shyam Sonkar died on 19th day of January, 2000 leaving behind his wife Mala Sonkar and one son Sagar Kumar Sonkar (being the plaintiff no. 1 & 2) as his legal heirs and successors and further Raju Sonkar died on 31.03.2024 leaving behind his wife Chanda Devi Sonkar and his son Baljit Sonkar (plaintiff no. 3 & 4) as his legal heirs and successors.

The plaintiffs also submitted that save and except the said fact another original inducting landlady namely Lilabati Devi also died on 12th day of February, 2004 but prior to her death the said Lilabati Devi transferred her half share in respect of the suit holding in favour of Binod Kumar Singh (plaintiff no. 6).

The plaintiffs further submitted that by the manner as aforesaid the plaintiffs became the joint owners and occupiers as well as Landlords-in-common in respect of the suit premises including suit holding no. 12, Tansuk Lane, P.O.- Kolakar Street, P.S.- Posta, Kolkata - 700007.

The plaintiffs further submitted that the original inducting tenant in respect of the suit premises namely Sattya Gopal Pal died in the year 1995 leaving behind his three daughters being the defendants as his legal heirs and successors who jointly inherited the tenancy right at that material point of time and became the tenants-in-common in respect of the schedule noted suit premises to the plaintiff.

The plaintiffs further submitted that in course of time West Bengal Premises Tenancy Act has been amended and in view of such amendment after five years from the date of death of the original tenant the defendants had no right to reside in respect of the schedule noted suit premises due to the reason in view of Sec.2(g) of the West Bengal Premises Tenancy Act 1997 the tenancy right of the defendants become ceased and thereby the defendants become illegal occupants in respect of the schedule noted suit premises to the plaintiff.

The plaintiffs further submitted that the defendants are guilty of committing waste and damage in respect of the schedule noted suit premises and the defendants violated the provision as laid down under Section 108 under Clause (m), (o), (p) of Section 108 of the Transferred of Property Act and as such the defendants are liable to be evicted there from.

The plaintiffs further submitted that in spite of several request and demands the defendants failed to vacate the schedule noted suit premises to the plaintiff in favour of the plaintiffs and having no other alternative finally on 03.04.2024 the plaintiffs through their authorized agent and Advocate Mr. Saibal Chattopadhyay sent one notice to the defendants on 03.04.2024 sent through registered post with A/D with a requisition to quit and vacate the schedule noted suit premises to the plaintiff within 15 days from the date of receipt of such notice.

The plaintiffs further submitted that the defendants on 12.04.2024 did not received the said notice rather refused to receive the same and thereby the notices has been duly served upon the defendants although in view of the provision of the W.B.P.T. Act 1997 in a case if filed by the landlords rather the owners against the defendants treating them as unlawful occupiers/ trespasser in view of Sec. 2(g) of the West Bengal Premises Tenancy Act no notice is require to be sent.

The plaintiffs submitted that in spite of several request and demands when the defendants did not quit and vacate the schedule noted suit premises to the plaintiff, compelled to file the instant suit for eviction of the defendants in accordance with law.

The plaintiffs therefore prays for :-

- a. A decree for eviction against the defendants/ trespasser from the schedule noted suit property and recovery of khas possession.
- b. A decree for cost of suit.
- c. Leave under Order 2, Rule 2 of the Code of Civil Procedure.
- d. Any other relief/reliefs to which the plaintiffs are entitled to both in law and in equity.

The cause of action of the suit arose on and from 01.06.2024 at the schedule noted suit property, situated at KMC Holding no.12, Tansuk Lane, P.O. - Kalakar Street, P.S.- Posta, Kolkata - 700007 within the jurisdiction of this Ld. Court.

PRAYER OF THE PLAINTIFF :-

The plaintiff prays for decree for eviction and recovery of khas possession of the suit premises by evicting the defendant.

EVIDENCE :-

In order to support the suit, plaintiff adduced the evidence of P.W-1 and Exhibited following documentary evidence.

1. Original counterpart of the rent bill dated 06.02.2002 for the month of May to June in the name of Kailash Singh **(Exhibit no. 1)**.
2. The rent bill for the month of July dated 07.08.2008 in the name of Sato Gopal Pal along with translation copy of the counter bill dated 07.05.2025 **(Exhibit no. 2 and 2/1 respectively)**.

DECISION WITH REASON :-

In order to prove the instant suit of the plaintiff has examined plaintiff no. 1 as P.W-1 and exhibited the relevant documents.

The instant suit is filed by the plaintiff seeking eviction of the defendant from the suit premises on the following grounds:-

Firstly that the defendants are guilty of committing waste and damage in respect of the schedule of the suit premises and defendant violated the provisions as led down under Section 108 under Clause (m), (o) and (p) of Section 108 of the Transfer of Property Act.

Secondly, on the ground that original inducting tenant in respect of the suit premises namely Sattya Gopal Pal died in the year 1995 leaving behind his three daughters being the defendants as his legal heirs and successors who jointly inherited the tenancy right at that material point of time and became the tenant-in-common in respect of the schedule suit property.

It is further stated by plaintiff that in course of time West Bengal Premises Tenancy Act has been amended and in view of such amended after five years from the date of death of the original tenant the defendant had no right to reside in respect of the schedule suit property due to the reason in view of Section 2(g) of the West Bengal Premises Tenancy Act, 1997 the tenancy right of the defendants became ceased and thereby the defendants became illegal occupant in respect of the suit property.

On perusal of the plaint, it appears that the plaintiff is also seeking decree of eviction against the defendant as a trespasser from the suit property.

The court is of the view that this court has jurisdiction only to try the eviction suit which are instituted under Section 6 of the West Bengal Premises Tenancy Act, 1997 and it is pre-requisite of the eviction suit that there must be landlord-tenant relationship between the plaintiff and defendants.

In the instant suit, plaintiff is seeking eviction of the defendant from the suit property as a trespasser or illegal occupants not as tenants.

Even in the written notes of argument, the plaintiffs are seeking and praying for decree of eviction of the defendants mainly in view of the provision Section 2(g) of

the West Bengal Premises Tenancy Act, 1997 which is beyond the jurisdiction of this court.

Therefore, on the basis of the above discussion and reasons, the court is of the view that the plaint in the instant suit is not maintainable and the instant suit is not maintainable in its form of prayer and law as it is beyond the jurisdiction the of this court.

Thus, the plaintiffs are not entitled to get the relief as per prayer of his plaint.

Hence, it is

ORDERED

that the suit be and the same is dismissed exparte but without cost against the defendants.

D/C by me.

Sd/-

Judge, Bench - II,
P.S.C. Court, Calcutta.

Sd/-

Judge, Bench - II,
P.S.C. Court, Calcutta.