

Ejectment Suit 252 of 2021.

[CNR No WBPS 01 000444 2021]

Before – Ashutosh Kumar Singh- Ld. Chief Judge.

Order No:-14.

17-01-2024.

Today is fixed for further hearing of petition u/s-7(2) of W.B.P T Act filed by the defendant dated 05-07-2022.

Parties file haziras. Parties are found present on call. The petition u/s-7(2) of W.B.P T Act filed by the defendant dated 05-07-2022 is taken up for hearing together with its affidavit-in-opposition filed by the plaintiffs on 22-09-2022.

Heard both sides. Perused the petition , affidavit-in-opposition challans and materials on record. Considered.

At the time of hearing, Ld. Advocate for the defendant submitted that the petition u/s 7(2) of W.B.P T Act was filed on the self same date when the petition u/s 7(1) of W.B.P T Act was filed i.e on 18-05-2022. Subsequently, the petition u/s 7(1) of W.B.P T Act was allowed by the Court vide Order No-07 dated 05/07/2022. Therefore, relying on the decisions of Hon'ble Apex Court passed in Suo Motu W.P(C) No Civil 3/2020, he prayed for allowing the petition u/s 7(2) of W.B.P T Act.

Against this, although affidavit-in-opposition has been filed by the plaintiffs on 22-09-2022 , at the time of hearing, Ld. Advocate for the plaintiffs submitted that the plaintiffs have not taken the ground of default as ground of eviction of the defendant. It is further submitted that after inspecting the challans and other documents filed by the defendant, the plaintiffs are satisfied that all the deposits are correct and regular and rents have been paid properly till date. Therefore , the plaintiffs have no objection if the petition u/s 7(2) of W.B.P. T Act is allowed.

Upon careful perusal of the plaint, it appears that the plaintiffs have not taken the ground of default as ground for eviction of the defendant from the suit premises. On the other hand, in the petition u/s 7(2) of W.B.P.T

Act dt 18-05-2022, the defendant has contended they deposited rent for the period from July 2021 to March 2022 before the Office of Rent Controller and thereafter deposited rent before the Court from April 2022 since the plaintiffs have refused to accept the rent sent through money order.

It is admitted position of the parties that the rate of rent, and the relationship between the parties are not in dispute, although the extent of tenancy is in dispute.

Defendant has filed documents and up to date challans till July- 2023 wherefrom it reveals that after appearing in the suit, defendant has deposited the admitted arrears of rent with interest and current monthly rent regularly and prior to that period, rent has been deposited in the Office of Rent Controller by the defendant. The plaintiffs have also not disputed the payment of rent made by the defendants.

If that be so, then the petition filed by the defendants/tenants u/s 7(2) of W.B.P T Act can be disposed of on contest.

Accordingly,

it is ,

Ordered

that the petition u/s 7(2) of W.B.P T Act filed by the defendants dt 05-07-2022 is disposed of on contest with the observation that no rent is lying due and payable by the defendants till July- 2023.

Defendant are directed to go on depositing current rent month by month by the 15th of each succeeding month as per law.

W/s filed by the defendant was accepted on 29-04-2022 as it appears from the Order sheet.

Accordingly, fix. **28.03.2024** for framing of issues.

Dictated & corrected

by me :-

Chief Judge.

Chief Judge

J.O .Code:- WB 01244.