

Ej. Suit No. 162 of 2015

Order No. 19

28.08.2017

Plaintiff present by filing hazira.

Defendant absent without steps.

It appears from the record that no written objection against the petition u/s 7(3) of W.B.P.T. Act, 1997 has been filed by the defendant.

Record is taken up for hearing petition u/s 7(3) of W.B.P.T. Act, 1997 dated 04.11.2016.

Perused petition and other materials on record.

Considered.

It appears from the petition that the defendants appeared in the suit and filed their written statement in which the defendant admitted in para-15 that they deposited the monthly rent to the Rent Controller from the month of March, 2012 onwards and annexed xerox copy of deposited Rent control challan for the month of January, 2015 as an annexure and that it is evident that the defendant admitted the plaintiff as their landlord and deposited the rent to the credit of the plaintiff in the office of the Ld. Rent Controller, Kolkata.

It further appears from the petition that in spite admitting the plaintiff as their landlord, the defendants neither filed any application u/s 7(1) of W.B.P.T. Act, 1997 or u/s 7(2) of W.B.P.T. Act, 1997 within the specified time not paid any rent to the plaintiff. The plaintiff has thus filed the present petition praying for striking out the defence of the defendants against delivery of possession.

It appears from the plaint that the defendants are defaulters from the month of March, 2012. It appears from the record that the defendants appeared on 08.05.2015 and till this date no application u/s 7(1) of W.B.P.T. Act, 1997 or 7(2) has been filed by the defendants.

The proposition of law is that the defendants ought to deposit rent by Court deposit challan after entering appearance in a suit. In absence of any petition u/s 7(1) of W.B.P.T. Act, 1997 filed on behalf of the defendants in the present suit, it is clear that the defendants have become defaults in payment of rent since May, 2015. It is also clear that the time limit prescribed in the Act for filing of such application is over long back.

Hence, I consider that non-compliance of the provisions of law prescribed u/s 7(1) & 7(2) of W.B.P.T. Act, 1997 automatically establishes that the defendants are defaulters in payment of rent since entering appearance.

Accordingly, it necessarily follows that the plaintiff's application u/s 7(3) of W.B.P.T. Act, 1997 need be allowed and the defence of the defendants against delivery of possession ought to be struck off.

Hence, it is,

O R D E R E D,

That the petition u/s 7(3) of W.B.P.T. Act, 1997 dated 04.11.2016 is hereby allowed. The defence of the defendant against delivery of possession is hereby struck out.

Fix for peremptory hearing.

Dictated and corrected by me:

Sd/- Smt. Shrutirupa Ghosh

Judge

Sd/- Smt. Shrutirupa Ghosh

Judge, 3rd Bench.