

**EJECTMENT SUIT NO :- 365 OF 2012**  
**(CNR No. WBPS01-000613-2012)**  
**(JO CODE No. WB01229)**

Order no. - 90

Dt. 16.08.2022

Today is fixed for passing order.

The record is taken up for passing order in respect of the petition under Section 151 of the CPC filed by the defendant on 28.06.2019.

Heard Ld. Advocate for the defendant who submitted before this court that after contesting hearing the application under Section 7(2) of W.B.P.T. Act has been disposed of and this court was pleased to hold the defendant as a defaulter in payment of rent and directed the defendant to pay sum of Rs. 17,160/- along with interest. Against the said order, the plaintiff preferred Revisional application before the Hon'ble High Court, Calcutta and Hon'ble High Court, Calcutta was pleased to give direction to this court to hear the application under Section 7(2) of W.B.P.T. Act afresh and said application has been disposed of holding that the defendant is defaulter in payment of rent since August, 2000.

He further submitted that the rent control deposit is valid and the same is deposited after observing all formalities and the defendant has deposited the monthly rent at the rate of Rs. 220/- in respect of two rooms and the two rooms are treated as one tenancy by the previous landlord and in Ejectment Suit No. 364 of 2012 and this court holds that the defendant is defaulter in payment of rent from August – 2000 to November – 2000 directed the defendant to pay sum of Rs. 2,464/- and the defendant has deposited the same on 14.06.2018 and the rate of rent was fixed by the Ld. Court as Rs. 220/- and the defendant has already paid the entire amount for his single tenancy comprising of two

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rooms, one is room and another is godown situated on the ground floor of the suit building and the defendant pressed for an order recalling and/or modifying the order dated 28.05.2019 after considering the rent receipt, the rent control challans and court deposit challans.

Heard Ld. Advocate for the plaintiffs who raised objection and verbally submitted that the instant petition is not tenable in the eye of law and the same is liable to be rejected.

Considered. Perused the instant petition and the materials on record.

On perusal of the same, it appears that at the time of disposal of the application under Section 7(2) of the W.B.P.T. Act, this court holds that the defendant has duly paid rent in favour of the plaintiffs for the month of August to November, 2000 and this court was pleased to hold that the defendant is defaulter since December – 2000 to May, 2019 for 222 months at the rate of Rs. 75/- per month along with interest and directed the defendant to pay sum of Rs. 18,315/- within the month. It was contended by the Ld. Advocate for the defendant that this court did not taken into consideration all the rent control challans filed by the defendant and the said rent control deposit was valid and the same was deposited after observing all the formalities.

On further perusal of the same, it appears that previously this court has disposed of the application under Section 7(2) of the W.B.P.T. Act, holding that the defendant is defaulter for payment of rent and against the said order the plaintiffs filed a revisional application before the Hon'ble Court and Hon'ble Court has been pleased to give direction to this court to hear the application under Section 7(2) of the W.B.P.T. Act afresh and after hearing both sides this court disposed of the said application vide order no. 67 dated 28.05.2019

holding the defendant as defaulter. It was also observed by this court that the defendant has duly pay rent in favour of the plaintiffs for the month of August – 2000 and the challans filed by the defendant show that the defendant has paid rent for the month of December – 2003 to December – 2013 in the name of the previous landlord while the defendant has admitted that he has received the letter of attornment dated 04.12.2000 where he came to know and he was requested to pay rent to the present plaintiff and in compliance with the defendant has also paid rent to the present plaintiff who intentionally did not issue any rent receipt and after holding the same this court hold that all the deposits made to the Rent Controller are bad and the defendant is defaulter since the month of December – 2000 to May – 2019.

It appears from the record that this court has passed the necessary order at the time of disposal of the application under Section 7(2) of W.B.P.T. Act, after taking evidence and it was admitted by the defendant at the time of cross-examination that he has filed rent receipt and rent control challans mentioned in two tenancies.

As per the provisions of Sub-section 2 of Section 7 of W.B.P.T. Act the word “shall” is introduced in the said section which makes the provisions absolute and there is no provision under W.B.P.T. Act to modify the order passed by this court which was absolute in nature after observing all legal procedure and this court being the Trial Court, has no revisional power to revise the order passed by this court. As such the application filed by the defendant is not tenable in the eye of law and is liable to be rejected.

Hence, it is

**ORDERED**

that the petition under Section 151 of the CPC filed by the defendant on 28.06.2019 is hereby rejected on contest.

To 15.11.2022 for framing of issue.

D/C by me.

Sd/-

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

Sd/-

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