

Ej. Suit No. 396 of 2022
CIS No. WBPS01-000686-2022

Order No. 15
Dated 24.04.2025

Today is fixed for hearing of the petition under Order-6, rule-17 r/w Section 151 of CPC praying for amendment of the petition under Section 7(2) of the WBPT Act, 1997 and hearing of the petition under order-6, rule-17 r/w Section 151 of CPC praying for amendment of plaint and hearing of the petition under Order 39, Rule-7 of CPC, written objection, if any, in the meantime.

Both sides filed hazira through their Ld. Advocates.

The application under order-6, rule-17 r/w Section 151 of CPC praying for amendment of the petition u/s 7(2) of the WBPT Act, 1997 as well as the written statement is taken up for hearing.

Heard both sides.

Perused the application, as well as the written objection filed by the plaintiff against the said application of the defendant.

The defendant has filed this application stating that some material facts has not been incorporated in the petition u/s 7(2) of the WBPT Act, 1997 as well as the written statement which are necessary for proper adjudication of the case, hence intends to amend the application as well as the written statement.

The defendant submits that he intends to incorporate the fact that he had paid the rent for the month of July, 2011 and for the month of August, 2021 to the landlord which was refused by him as well as his tender of rent through money order. Thereafter, the defendant filed an application u/s 21 of the Act of 1997 before the Rent Controller, but said rent could not be deposited due to machinery fault for depositing rents before the Rent Control office through online system which had been recently introduced as a result of which the rent for the month of July, 2021 could not be deposited before the Rent Controller and the defendant vide amendment intends to incorporate this fact.

On the other hand, the plaintiff submitted that the defendant while submitting application u/s 7(1) & 7(2) of the WBPT Act, 1997 did not make any prayer for permission to deposit the arrear rent or admitted arrear rent with interest but only prayed for permission to deposit the current rent from the month of January, 2023. In his application u/s 7(1) & 7(2) of the WBPT Act, 1997 the defendant has stated he has deposited the rent from July, 2021 before the Rent Controller and that he has no arrear of rent due hence the

defendant cannot be allowed to fill-up the lacuna and thus submitted for rejection of the said application.

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Considered the submission of the respective sides and the case record.

The instant suit has been filed on 13.12.2022 and the defendant appeared on 01.02.2023 and filed applications u/s 7(1) & 7(2) of the WBPT Act, 1997 and the application u/s 7(1) of the Act was disposed of on 01.02.2023 with a direction to deposit the current rent month by month from the month of January, 2023.

The defendant did not sought any permission for deposit of any arrear rents or admitted arrear rent in under the provision of Section 7(1) of the WBPT Act, 1997.

In his application u/s 7(2) of the Act also he has stated that he has been depositing the rent with the Rent Controller since July, 2021 and he has the challans in that respect and now to allow the defendant to amend his application would be to frustrate the mandatory provision of Section 7 of the Act.

It is pertinent to mention that under order-6, rule-17 of CPC applicable in respect of the proceedings which includes plaint and the written statement and the provision is not applicable to the application u/s 7(2) of the WBPT Act, 1997. The defendant has further prayed for amendment of the application u/s 7(2) of the Act as well as the written statement in one single application which is not permissible in view of Rule 20(3) of the Civil Rules and Orders of Calcutta High Court.

In view of the above, the petition under Order-6, Rule-17 of the CPC is hereby rejected as misconceived without going into the merits of the same.

Fixing **04.07.2025** for hearing of the petition under order-39, Rule-7 of CPC, written objection, if any, in the meantime and application under Order-6, Rule-17 of CPC filed by the plaintiff.

Dictated and corrected by me:

Judge

Smt. Gladly Bomjan
(J.O. Code: 01039)
Judge, 3rd Bench
Presidency Small Cause Court,
Calcutta