

EJECTMENT SUIT NO. 219 OF 2018
C. N. R. NO. WBPS01-001286-2018
Before Smt. A. Bhattacharya, Ld. Judge, 5th Bench.

ORDER NO. 62 DATED 02.04.2025

Both parties file hazira.

Today is fixed for P. Hearing of the suit.

Plaintiff has filed one petition praying for time on the ground that the plaintiff in person will be on leg at Hon'ble High Court at Calcutta in Court No.6.

Ld. Advocates for both sides are present.

The record is taken up for hearing.

In course of hearing, it is submitted by the plaintiff in person that he will be busy in conducting another case in the Hon'ble High Court and as such, prays for time for P. Hearing of the suit fixed today.

On the other hand, it is submitted by the ld. Advocate that he has strong objection against the prayer for adjournment by the plaintiff because as per Resolution circulated in the Hon'ble High Court at Calcutta, Court No.1 to 14 will not be there at present due to the Circuit Bench.

Perused the petition and the materials on record.

On careful perusal of the case record, it appears that the petition under Sec.7(3) of the West Bengal Premises Tenancy Act filed by the plaintiff was rejected on contest vide order no.37 dated 03.09.2022 and it was fixed for framing of Issues. It further appears from the record that the Issues have already been framed vide order no.08 dated 25.03.2019. Thereafter, the Misc. Case No.41 of 2021 under Sec.340 read with Sec.195 of Cr.P.C. filed by the plaintiff has been dismissed on contest vide order no.59 dated 05.09.2024 and the suit was fixed for P. Hearing of the suit. Against the said order, plaintiff moved before the Hon'ble High Court, Calcutta in C.R.A. (DB) 369 OF 2024 wherein Hon'ble Court has been pleased to pass vide order dated 10.03.2025 observing that "***Accordingly, we set aside the order passed by the learned Judge and directed the application under Section 340 of the Code of Criminal Procedure shall be disposed of along with the main suit.***

We make it clear we have not expressed any opinion with regard to the merits of the case which is kept open to be decided independently by the learned Trial Judge."

On further perusal of the case record, it appears that one contempt application being C.P.A.N. 8 OF 2023 has been filed by the Plaintiff against my the then ld. Predecessor in interest in my chair which has been dismissed, vide order dated 22.03.2024, as withdrawn on the prayer of the petitioner with further direction upon the petitioner to pay cost of Rs.10000/- to the alleged contemnor within a fortnight from date for the frivolous filing of the contempt application. But till date, not a single scrap of paper has been filed by the plaintiff to show that

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the plaintiff has paid the said cost to the contemnor and complied with the order of Hon'ble High Court, Calcutta as yet. Thus, the plaintiff herein himself is liable for action for contempt for non compliance of the direction of the Hon'ble High Court at Calcutta.

Considering the discussion made hereinabove, I am constrained to hold that the plaintiff himself has caused delay in trial of this suit since 2019. Plaintiff has filed this adjournment application on this day simple on a frivolous ground for which he must be subjected to heavy cost.

Prayer for adjournment is allowed for the ends of justice subject to cost of Rs.10000/- to be paid by the plaintiff to D.L.S.A., Kolkata.

Fix 23.06.2025 for filing receipt showing payment of cost of Rs.10000/- by the plaintiff and P. Hearing as a last chance in default necessary order will be passed.

Dictated and corrected by me,

JUDGE

JUDGE
[5TH BENCH]