

EJECTMENT SUIT NO. 219 OF 2018  
C. N. R. NO. WBPS01- 000720- 2018  
Before Sri Sridhar Chandra Su, Ld. Judge, 5<sup>th</sup> Bench.

ORDER NO. 37 DATED 03.09.2022

Today is fixed for passing order in respect of petition under Sec.7(3) of the W.B.P.T. Act.

Both parties have filed their respective haziras.

Defendant has filed xerox copies of some documents with firisti.

Plaintiff has filed written objection against the documents filed by the defendant today. Copy not served. Let it be kept with the record.

The record is taken up for passing order.

Ld. Advocate for the plaintiff, at the time of argument, submitted that the defendant is a defaulter in payment of rent. He has further stated that the defendant, within 30 days from the date of appearance, did not file any application under Sec7(1) of the W. B. P. T. Act and the defendant did not comply with the provision of law. Accordingly, plaintiff has filed this petition and submitted that the defence of the defendant against delivery of possession will be struck off.

Ld. Advocate on behalf of the defendant, at the time of hearing, submitted that the petition filed by the plaintiff is not maintainable as because the defendant is not a defaulter in payment of rent. He has further submitted that in the plaint, plaintiff did not mention the date since when the defendant is a defaulter in payment of rent. If the defendant is not a defaulter, there is no question of filing the application under Sec.7(1) of the W. B. P. T. Act and the petition filed by the plaintiff will be dismissed.

Considering the submissions of ld. Advocates for both sides along with materials on record, therefrom found that the plaintiff, in the plaint, has made any whisper regarding the date of defaulter. It also reveals from the xerox copy of notice that there is no whisper about the date of default. Plaintiff sent the ejectment notice to the defendant under Sec.6(b) of the W. B. P. T. Act. As per provision of law, there is no scope to send the ejectment notice to the tenant under the above mentioned provision.

Hence, it is ORDERED that the petition under Sec.7(3) of the W. B. P. T. Act filed by the plaintiff is not considered and the same is hereby rejected.

Fix 19.11.2022 for framing of Issues.

DICTATED AND CORRECTED BY ME,

JUDGE

JUDGE  
[5TH BENCH]  
J.O. Code No. WB-00-620.