

**EJECTMENT SUIT NO. : 403 OF 2019**  
**(CNR No. WBPS01-000962-2019)**  
**(JO CODE No. WB01229)**

Order no. - 32  
Dt. 06.06.2024

Today is fixed for hearing of petition under Section 151 of CPC filed by the defendant on 02.08.2023.

Both sides files hazira.

Now the case record is taken up for hearing of petition under Section 151 of CPC filed by the defendant on 02.08.2023.

Heard Ld. Advocate for the defendant who submitted before this Court that the defendant has deposited the rent before this court complying the order passed under Section 7(1) and 7(2) of W.B.P.T. Act till the month of February, 2023 and the illness of his wife, he could not deposit the rent for the month of March, 2023 to May, 2023 within the statutory period and hence, prayed before this court to give necessary permission to the defendant to deposit the rent for the above months and thereafter, in the credit of the plaintiffs.

On the other hand, Ld. Advocate for the plaintiff has submitted that there is no provision of under the West Bengal Premises Tenancy Act for extension of time to deposit the rent as per the provisions of the petition under Section 7(1) of W.B.P.T. Act and this court has no jurisdiction to entertain such type of petition and hence prayed for rejection of the same.

In **(2019) 10 Supreme Court Cases 660** and submitted that it was held by the Hon'ble Court that the Court has lack of power to extend time where tenant defaults in payment of rent and the provisions of Section 7(2) of W.B.P.T Act is mandatory in nature and the Court cannot allow the prayer of the defendant and hence prayed for rejection of the same.

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

On perusal of the same, it appears that the defendant has deposited rent before this court till the month of February, 2023 and it was contended by the defendant that due to illness of his wife, the defendant could not deposit the rent for the month of March, 2023 to May, 2023.

It is fact that as per the provisions of 7(1) and 7(2) of W.B.P.T. Act, it is mandatory for the tenant who filed those applications within 30 days from the date of service of summons or from the date of appearance before this court and observations made by the Hon'ble Apex Court in the decision cited by the plaintiff is applicable at the time of disposal of the applications under Section 7(1) and 7(2) of W.B.P.T. Act.

As per the provision of 7(3) of W.B.P.T Act, it provides that if the tenants fails to deposit or pay any amount referred to in sub-section (1) and sub-section (2) within the time specified therein or within such extended time as may be granted.

After observing the materials on record and also the decision of the Hon'ble Apex Court, it comes to the mind of the court that there was intention on the part of the defendant not to deposit the rent as stipulated under Section 7(1) of W.B.P.T Act but it appears from the record that the defendant has complied the order since February, 2023 and subsequently did not comply due to illness of the petitioner's wife, and the defendant being a litigant person depends upon his Ld. Advocate and the grounds shown by the defendant is satisfactory one.

Considering the above made observations, the petition filed by the defendant is hereby allowed on contest.

Hence, it is

**ORDERED**

that the petition dated 02.08.2023 under Section 151 of CPC filed by the defendant is hereby allowed on contest.

Defendant is permitted to deposit rent from the month of March, 2023 to May, 2023 at the rate of Rs. 847/- per month along with statutory interest of 10% within 15th of this month.

Defendant is hereby permitted to deposit current rent from the month of June, 2023 onwards according to due process of law.

However, due to non-deposit of rent within the stipulated period, if any right accrued by the plaintiffs should be considered at the time of final decision of this case.

To 07.08.2024 for framing of issues and C/R.

D/C by me:

Sd/-

Judge, Bench – II,  
Presidency Small Cause Court,  
Calcutta.

Sd/-

Judge, Bench – II,  
Presidency Small Cause Court,  
Calcutta.