

WBPS01001244-2016

West Bengal Form No. 3701

**HIGH COURT FORM NO. (J)
HEADING OF JUDGMENT IN ORIGINAL SUIT/CASE**

DISTRICT : KOLKATA
IN THE COURT OF : JUDGE, 4TH BENCH,
PRESIDENCY SMALL
CAUSE COURT,
CALCUTTA
PRESENT : SRI. BIPLAB SHEE

Ejectment Suit No. 601 of 2016

CIS NO : WBPS01-001244-2016
DATE : 13th day of July, 2026

Buckingham Court Pvt. Ltd., ... Plaintiff

-VERSUS-

Smt. Asha Kapur ... Defendant

This suit coming on for final hearing on
30.06.2026 in presence of

S.P. Tiwari
Badal Singh ... Advocate for Plaintiff
Anusmita Das ... Advocate for defendant

and having stood for consideration to this day, the Court delivered the following Judgment:-

This is a suit for eviction of tenant and for recovery of Khas possession valued at ₹ 10980/- and for damages for Rs.3000/-.

EXORDIUM :

1. This is a suit for decree for eviction and recovery of possession, valued at Rs.10980/- for recovery of vacant and khas possession of the suit premises by evicting the defendant and for damages valued at Rs.3000/- filed by plaintiff.

Suit property :-

2. All that one suite room being no. 9A comprising of one bed room, Hall, one covered verandah, one bath and privy on the 1st floor of the premises No.113B, Muzaffar Ahmed Street, P.S. Park Street, Kolkata - 700016 within the Kolkata Municipal Corporation.

The facts

3. Trimming out the unnecessary details, the facts leading to this suit are appended hereunder:-

Pleading of the plaintiffs

4. The plaintiff company is the owner / landlord of the premises 113B, Muzaffar Ahmed Street, P.S. Park Street, Kolkata - 700016 herein after referred to as suit premises. It is the contention of the plaintiff that during lifetime Sushil Kr. Kapur, the husband of the defendant was the tenant under the plaintiff in respect of the suite being no 9A comprising of one bed room, one hall, covered verandah, one bath and privy on the 1st floor of the suit premises lastly at a rental of Rs.915/- inclusive of service charges of Rs.305/- per month according to English Calendar month. It is also the contention of the plaintiff that said Susil Kr. Kapur died on 21/03/2015 leaving behind defendant, being his spouse, a son and the widow of a predeceased son. The son and the widow of the predeceased son has been living separately elsewhere and the defendant being the spouse, had been living with said Sushil Kr. Kapur at the time of his death. It is also contended by the plaintiff that said Sushil Kr. Kapur, during his lifetime was also a tenant of another suite being suite no.9B on the 1st floor of the said premises no. 113B, Muzaffar Ahmed Street, P.S. Park Street, Kolkata – 700016 at a rental of Rs.915/-, inclusive of service charge of Rs.305/- per month

according to English Calendar month. After promulgation of West Bengal Premises Tenancy Act, 1997 and after the said Act came into force, the tenancy is no longer hereditary and in terms of the said Act the defence became tenant of the said tenancy for life as spouse, on terms and condition the said tenancy was held by the said deceased. It is the contention of the plaintiff that the elder son of the deceased Mr. Sashi Kapur has been living elsewhere separately and independently, since long prior to the death of his father and was not at all dependent upon his deceased father at the time of his father's death nor was he dependent upon the defendant.

4(a) It is also contended by the plaintiff that after the younger son of the defendant his widow has been living elsewhere separately and independently since long prior to the death of the husband of the defendant. In the month of January, 2015 the plaintiff was shocked to know that during the lifetime of the husband of the defendant, he and the defendant amalgamated the aforesaid two suites being 9A and 9B into one without the consent, knowledge and permission of the plaintiff wrongfully and illegally and in violation of the provisions of law, by making lawful, illegal and unauthorized additions, alterations and construction and by such acts the tenant / defendant has made herself liable to be evicted from the suit premises. Such act of the defendant amount to a material alteration, whereby clause (o) of section 108 of T.P Act is violated. It is also contended that the defendant has to fail to pay rent in respect of the tenanted premises to the plaintiff since the month of April, 2015 and thus the defendant is defaulter in payment of rent in respect of the suit premises for more than three months within a period of 12 months and thereby is liable to be evicted from the suit premises.

It is also the contention that the plaintiff company reasonably require the suit premises as well as the suite no.9B for their own use and occupation for the purpose of having its office, as it has no office of its own for proper management of the estate of the plaintiff company. The plaintiff company has his registered office in at a small space in a room at the plaintiff's present address and facing much inconveniences to manage the suit building and the estate of suit premises. By having its own office

at the suit building it will much convenient and less costly for proper management of the estate of the plaintiff and it will be beneficial for the security of the estate of the plaintiff.

4(b) The tenancy of the defendant was duly terminated by a notice to quit dated 07/03/2016 issued by the plaintiff through his Advocates B.B. Singh and Co., asking the defendant to quit, vacate and deliver up the peaceful possession of the suit to the plaintiff on the expiry of the last day of April, 2016 and it was specifically mentioned in the said notice that if the defendant fails to comply with the said notice, then a suit for eviction will be filed by the plaintiff against the defendant after the expiry of the notice period. The notice was sent to the defendant by registered post with Acknowledgment due and the defendant duly received the said notice on 09/03/2016 by putting her signature over the A.D card and the defendant by her Advocate letter dt.17/03/2016, admitted the service of notice. In spite of service of said notice as aforesaid, the defendant failed and neglected to vacate the suit premises on the expiry of the notice period and as such the defendant is in wrongful possession of the suit premises on and from May, 2016 which compelled the plaintiff to file the instant suit for eviction of defendant.

***4(c) Cause of action:-** The cause of action of the suit arose on 01.05.2016 at **113B, Muzaffar Ahmed Street, P.S. Park Street, Kolkata – 700016** as the defendant failed and neglected to vacate the suit premises. The plaintiffs have prayed for recovery of khas possession by evicting the defendant from the suit premises.*

***4(d) Prayer of plaintiffs :-** The plaintiff, therefore, pray for :-*

- a) A decree for recovery of khas possession in respect of suit property;*
- b) Cost;*
- c) Decree for damages;*
- d) Such other further relief or reliefs to which the plaintiff is entitled*

to in law and equity;

Hence, the plaintiff was compelled to file this suit for getting the decree as prayed for.

Pleading of the defendant

5. *On the other hand, the defendant, entered appearance and submitted written statement and denied the contents of the plaint save and except specifically admitted by him in his written statement.*

5(a) *It is contended that the instant suit is not maintainable in law and facts and the plaintiff has filed the suit with malafide intentions. The ground of defaulter in payment of rent is also denied.*

5(b) *The defendant even further contended that the plaintiff is a private limited company, a statutory body and person who has filed the suit on behalf of the plaintiff company is the manager Pulin Kumer Banerjee but nowhere it is mentioned as to who on behalf of the company has empowered him to file the instant suit. It is well known fact in law that company is not a person but a statutory body and is being represented by the Director, Partner or Proprietor but the person who has filed the suit nowhere has stated who has on behalf of the plaintiff / company has empowered him to file the instant suit and as such the entire suit is basically illegal in procedure of law.*

5(c) *The defendant further contended that all the members of the family of defendant have been decided together in both suite flat no.9A and 9B standing side by side at premises no.113B Muzaffar Ahmed Street, Kolkata-700 016. It is also contended by the defendant that the elder son of defendant Mr. Sashi Kapur and his family members and wife of defendant is deceased younger son have been residing together in aforesaid two flats.*

5 (d) *The defendant further denied the contention of alteration and amalgamation as well addition of the suite flats and further*

contended that after refusal of monthly rent by the authorized representative of the plaintiff company, the defendant started depositing rent before the Rent Controller month by month and after knowledge of this suit the defendant stopped paying rent to Rent Controller and a petition under section 7(1) and 7(2) of W.B.P.T. Act were filed and as such the defendant is not a defaulter in paying rent as alleged by the plaintiff. It is also the contention of the defendant that the plaintiff has enough space in the building Stiffen House at 4E, B.B.D Bag Kolkata-700 001. Furthermore the reasonable requirement for the office is just a false story just to convert the residential room into official room.

The defendant has prayed for dismissal of the instant suit.

From the rival contentions of the respective parties following issues had been framed for consideration and determination:

6. ISSUES FORMULATED:-

- 1. Whether the suit is maintainable in its present form and in law?*
- 2. Whether the plaintiff has any cause of action to file the suit?*
- 3. Whether the defendant is the tenant under the plaintiff in respect of suit scheduled premises?*
- 4. Whether the Ejectment notice properly served upon the defendant?*
- 5. Whether the notice is legal, valid and sufficient in the eye of law?*
- 6. Whether the defendant is a defaulter of payment of rent?*
- 7. Whether the plaintiff reasonably required the suit property?*
- 8. Whether the plaintiff has sufficient alternative accommodation anywhere?*
- 9. As the defendant done any act contrary to the provision of clause (m), (o) and (p) of section 108 of T.P. Act?*

10. Whether the defendant wilfully made addition or alteration causing material deterioration of the suit premises, without consent of plaintiff?

11. Whether the plaintiff is entitled to get the decree as prayed for?

12. To what other relief, if any, the parties are entitled to?

7. PROFILE OF EVIDENCE ON RECORD

Plaintiff's side –

Oral evidence

1. Hanuman Prasad Murarka -----P.W 1

8. Documentary evidence

<i>Sl no.</i>	<i>Documents</i>	<i>Marked as</i>
1.	<i>Extract copy of \board of Resolution</i>	<i>Exhibit-1</i>
2.	<i>Property tax bill</i>	<i>Exhibit-2</i>
3.	<i>Counterparts of the bills dt. 01/04/2014 and 01/04/2015</i>	<i>Exhibit-3 (collectively)</i>
4.	<i>Counterparts of the rent bills dt. 02/06/2014 and 01/04/2015</i>	<i>Exhibit-4 (Collectively)</i>
5.	<i>Copy of eviction notice dt.07/03/2016</i>	<i>Exhibit-5</i>
6.	<i>Postal receipt of eviction notice</i>	<i>Exhibit-5/1</i>
7.	<i>Reply letter along with envelope and postal receipt</i>	<i>Exhibit-6 (collectively)</i>

9. Defendants' side –The defendants have failed to comply the obligation enshrined under Section 7(1) and 7(2) of the West Bengal Premises Tenancy Act and consequentially, their defence against delivery of possession has been struck out vide Order No. 34 dated 07/09/2022.

This being the situation, apart from the evidence that has come from the evidence of PW-1 there lies no independent evidence from the side of the defendant.

11. Decision with Reasons

The present suit was filed in the year 2018 hence, it is the West Bengal Premises Tenancy Act, 1997 (for short the WBPT Act), which has its application herein.

Issue Nos. 1. 2 and 3

1/ Whether the suit is maintainable in its present form and in law? And

2/ Whether the plaintiff has any cause of action to file the suit?

3/Whether the defendant is the tenant under the plaintiff in respect of suit scheduled premises?

Since all the above two issues are inter connected, hence for the sake of convenience and to avoid repetition, both the issues are taken up together for consideration.

Plaintiff has filed the suit for eviction having taken recourse to section 6 of West Bengal Premises Tenancy Act, 1997 for recovery of possession of the suit property, claiming himself to be the owner cum landlord of the suit building whereas the status of the defendant is a monthly tenant.

Hanuman Prasad Muraka, the Director of the plaintiff company examined himself as PW-1.

PW-1 repeated the contents of the plaint during his examination in chief. As documentary evidence property tax receipt issued by KMC were marked as Exhibit-2.

It is important to note here that as the instant suit come within the purview of West Bengal Premises Act, 1997 therefore it is only to be seen by the Court as to whether the plaintiff has been able to substantiate that the defendant is a tenant under the plaintiff or not.

The question of title is not germane to the proceeding as is in the declaratory suit.

During the course of argument, Ld. Advocate for the defendant did not challenge the relationship of the plaintiff and the defendant as landlord and tenant rather admitted the relationship.

The defendant from his W.S it prima facie appears has taken two fold defence, first that the plaintiff has no reasonable requirement of the suit premises and the plaintiff has other accommodation in and around Kolkata apart from the suit premises.

Ld. Counsel for the plaintiff at the time of advancing of argument submitted that the plaintiff has duly proved his case and it has already been proved that the notice has already duly been served upon the defendant and there is nothing in the W.S to substantiate that the notice of eviction served upon the defendant is not legal or valid.

In the instant case by filing the petition under section 7(1) and 7(2) of West Bengal Premises Tenancy Act, 1997 the defendant has accepted the plaintiff as his landlord. So in the instant case there is nothing on the record which has substantiate the claim of the defendant that the suit is not maintainable in it's present form. So far as the legality of the ground of eviction is concerned this question has been thoroughly discussed in the later part of this judgment.

Now the cause of action may be described as bundle essential fact which is necessary for the plaintiff to prove before he can succeed and which gives the plaintiff the right to relief against the defendant.

The cause of action means every material facts which it traversed, it would be necessary for the plaintiffs to prove in order to support their right to judgment. It refers entirely to the grounds set forth in the plaint as a cause of action, or, in other words to the media upon which the plaintiffs asked the Court to arrive at the conclusion in their favour.

A cause of action in a suit for eviction of a tenant is a legal basis on which the landlord seeks for remove the tenant from the rented property. It consists of the facts and grounds that justify the eviction.

The termination of tenancy through notice forms the basis of cause of action in an eviction suit. However, it is not the sole cause of action, it is a precondition for filing eviction suit. Cause of action materializes if the tenant refuses to vacate after notice period expires. In other words, in a suit for eviction filed by landlord against the tenant the right to sue and to get judgment arises from the determination of the tenancy by expedition of the notice to quit.

Term “**Cause of Action**” has acquired a settled judicial meaning. It refers to the necessary conditions for maintenance of suit, including not only the infraction of the right but infraction coupled with the right itself. “Cause of action” consists of bundle of facts which gives ground to enforce a legal injury for redressal in the court of law. It refers judgment in his favour.

In **A.B.C. Laminart Pvt. Ltd. & Anr. Versus A.P. Agencies, Salem (1989) 2 SCC 163**, the Hon'ble Apex Court explained the meaning of “cause of action” as follows:

“.....**A cause of action** means every fact, which if traversed, it would be necessary for the plaintiff to prove in order to support his right to a judgment of the court. In other words, it is a bundle of facts which taken with the law applicable to them gives the plaintiff a right to relief against the defendant. It must include some act done by the defendant since in the absence of such an act no cause of action can possibly accrue. It is not limited to the actual infringement of the right sued on but includes all the material facts on which it is founded. It does not comprise evidence necessary to prove such facts, but every fact necessary for the plaintiff to prove the enable him to obtain a decree. Everything which if not proved would give the defendant a right to immediate judgment must be part of the cause of action. But it has no relation whatever to the defence which may be set up by the defendant nor does it depend upon the character of the relief prayed for by the plaintiff.....”

It is also useful to refer the judgment in **Bloom Dekor Ltd. Vs. Subhash Himatlal Desai & Ors. (1994) 6 SCC 322**, wherein a three Judges Bench of the Hon'ble Apex Court held that -

“....By “**Cause of Action**” it is meant every fact, which, if traversed, it would be necessary for the plaintiff to prove in order to support his right to a judgment of the Court, (**Cooke V. Gill, 1873 LR 8 CP 107**). In other words, a bundle of facts which it is necessary for the plaintiff to prove in order to succeed in the suit”

The expression “**cause of action**” has thus acquired a judiciary settled meaning. In the restricted sense, it means the circumstances forming the infraction of the right or the immediate occasion for the conditions for the maintenance of the suit, including the infraction of the right. It would be just a surrogate approach. If we confine the meaning of ‘**cause of action**’ within a particular date or period. Therefore, the rivalry of the respective parties in respect of the subject involved in this suit, certainly, does not detain this Court more to hold that the plaintiff had no cause of action to initiate this suit against the defendants on and from the date as mentioned in the plaint and the suit is not maintainable merely on the pleadings. The onus is upon the defendant to prove that the instant suit is devoid of any cause of action and suit is not maintainable and/or barred under the provision of law.

The instant suit is filed by the plaintiff claiming himself as the owner and joint landlord in respect of the suit property.

It is stated by plaintiff that original defendant is monthly tenant in respect of the suit premises.

The plaintiff has filed the instant suit for eviction of the defendant on the following grounds:-

- 1) That the plaintiff reasonably required the suit property for his own use and occupation for business purpose as well for his use and occupation;
- 2) That the defendant has made addition and alteration in the suit premises without permission of the plaintiff / landlord;
- 3) That the defendant is a defaulter in payment of monthly rent;

The plaintiff has also complied this statutory obligation by issuing Ejectment notice to quit dated **07/03/2016** upon the defendant prior to filing of the instant suit.

The defendant appeared in the instant suit on receiving summons and filed two applications under Section 7(1) and 7(2) of the West Bengal Premises Tenancy Act and also filed the written statement in their defense wherein defendant has denied and disputed all the facts as stated by the plaintiff in the plaint.

Claiming the ownership of the suit building and being the landlord in respect of the suit premises, the plaintiff has asked eviction of the defendant on the ground reasonable requirement, subletting and nuisance in respect of the suit premises.

According to the plaintiff, a notice of eviction has already been served upon the defendant prior to the filing of the suit.

On the contrary the defendant has not denied and dispute the service of notice of eviction. The defendant did not give the vacant possession of the suit premises on the expiry of the month of April, 2016, hence the right was accrued to the plaintiff to file the suit for recovery of khas possession after evicting the defendant from the suit premises.

Therefore, it is hold that the plaintiff has the cause of action to file the suit.

Hanuman Prasad Muraka, P.W-1 has exhibited the copy of eviction notice dtd 07/03/2016 along with postal receipt, that are marked Exhibit-5 and 5/1 respectively. It is mandatory requirement under section 6(4), W.B.P.T.Act, 1997 that a landlord must give eviction notice prior to institution of a suit for eviction against him. In this suit plaintiff being the landlord appeared to have duly complied with such provision of law. Defendant apparently did not comply with the demands made in such notice which compelled the plaintiff to file this suit.

Therefor in view of foregoing discussion issues under consideration are decided in affirmative and thus in favour of the plaintiff.

ISSUE NO. 4 & 5 :

13

Was any ejectment notice served upon the defendant? If so, is that valid, legal and sufficient? And

Whether the notice is legal, valid and sufficient in the eye of law?

These issues are considered to be the most vital one because in a suit for eviction against the tenant the notice to quit can be considered as the backbone of the suit.

Section 6(4) of the West Bengal Premises Tenancy Act, 1997 makes it mandatory to send an eviction notice by the landlord to his tenant prior to institution of a suit.

Plaintiff has duly complied with such requirement. However, it remains to be seen if such eviction notice is proper and valid, and if so whether it was duly served upon the defendant.

Regarding this issue, the Ld. Advocate for the plaintiff argued that the eviction notice dated 07/03/2016 was duly sent to the defendant through registered post with A.D. and the postal receipt which has been marked as Exhibit-5 and 5/1 respectively. It is also evident that the defendant has given reply to the aforesaid notice and the said reply letter along with the envelope has been marked as Exhibit-6 collectively. These exhibits go to show that the notice of eviction dt.07/03/2016 sent by the plaintiff has been duly delivered to the defendant and the oral testimony of PW-1 also corroborates the aforesaid.

One of the essential ingredients for instituting a suit for eviction under West Bengal Premises Tenancy Act, 1997 is that *the landlord / plaintiff prior to institution of the suit shall have to give one month notice to the tenant to vacate the suit premises.*

Valid notice to quit upon the tenant is a condition precedent in a suit for eviction. It is based on public policy and cannot be waived – *Amarnath VS Sanjib Das 2008 (3) CHN 962.*

In *Binavi VS Gulam Ali AIR 1967 Cal 390*, it has been observed that statutory notice is a condition precedent within order VI rule 6 of the Civil Procedure Code and should be implied in pleading and is also a part of a cause of action.

None as contemplated under section 6(4) is a notice of the suit. Therefore, it must contend a threat of suit in the event of the tenant not quitting or vacating the tenanted premises on the expiry of the notice – *Surya Properties VS Bimalendu Sarkar AIR 1964 Cal I.*

PW-1 has exhibited the copy of eviction notice dated 07/03/2016 along with postal receipt which has been marked as Exhibit-5 and 5/1 respectively.

A perusal of eviction notice would show that it gives a clear one month's period to the defendant to comply with the demands made

therein. Besides, the notice was shows that the plaintiff has threaten the defendant of filing civil suit in the event he failed to comply with the demands made in such notice. Further, the eviction notice also details regarding the ground on which eviction is being sought.

From Exhibit-5/1 it is quite evident that the said notice was posted addressing to the defendant and from Exhibit 6 it is evident that after receiving the said notice the defendant duly sent the reply of the same to the plaintiff.

The oral testimony of PW-1 remains unchallenged.

In this suit, the plaintiff has stated he has sent a notice of eviction dated 07/03/2016 to the defendant through his Ld.Advocate by registered post with A.D.

*The **Exhibit-5** has properly described the suit premises and the language of the said notice is unambiguous and explicit about this purpose. So far as the legality and sufficiency of the notice of eviction are concerned, nothing is found adverse to that effect. The suit is filed after the statutory period of eviction of notice, which makes the notice of eviction valid.*

The reply of the aforesaid Exhibit-5 which has been marked as Exhibit-6 goes to show that the notice was duly been served upon the defendant.

Though the defendant has not denied the due service of notice upon him. The initial burden of proving the service of notice has successfully proved by the plaintiff.

Thus from such conduct of the defendant it would not be incorrect to hold that he has impliedly admitted the service of eviction notice upon him. Consequently, it would be proper to hold that the eviction notice sent by the plaintiffs to the defendant was proper, valid and it was duly served upon the defendant.

Accordingly, this particular issues are decided and disposed of in favour of the plaintiff.

ISSUE NO. 6:

14. Whether the defendant is a defaulter in payment of rent?

This issue is taken up for consideration.

The plaintiffs have filed the suit for eviction of the defendant also on the ground that the defendant is defaulter in payment of rent from the month of April, 2015. and thus the defendant is liable to be evicted from the suit property.

Defendant has denied and disputed the same in his written statement.

It is stated by the plaintiff that the defendant herein stopped paying rent from the month of April, 2015 and he has become habitual defaulter. Plaintiff has also filed counterpart of rent receipt for the month of June, 2014 and April, 2015 which has been marked as Exhibit-4 collectively.

Defendant has denied the same and stated that plaintiff willfully neglected to assess the rent.

After appearing in the suit the defendant has filed two applications under section 7(1) and 7(2) of West Bengal Premises Tenancy Act, 1997.

As per order no.10 dt. 09/04/2018 the application under section 7(1) of West Bengal Premises Tenancy Act, 1997 is disposed off by directing the defendant to deposit the admitted arrear rent with interest @10% p.a at his own risk and also directed to pay current rent month by month, before 15th day of each of the month till disposal of the suit

and accordingly 7(2) petition was disposed off vide order no.11 dt.16/05/2018.

On perusal of the order no.34 dt.07/09/2022 the provision of 7(3) of the Act would be operative and the petition filed by the plaintiff under section 7(3) of West Bengal Premises Tenancy Act, 1997 was allowed striking off the defence of the defendant against the delivery of the possession. The said order has not yet been set aside by any Higher

Forum, and, as such, the said order is still in force having obtained finality.

Thus in view of the discussion above as well as on the basis of materials on record, there is no dispute that the defendant is a defaulter in the payment of rent.

It is pertinent to mention here that under section 7(3) of West Bengal Premises Tenancy Act, 1997 that in case non compliance of sub section (1) or sub section (2) and order of striking out of the defence against delivery of possession shall be passed as has been done in the present case vide order no.34 dt.07/09/2022 wherein the defence of the defendant against delivery was struck out in terms of provision of 7(3) of West Bengal Premises Tenancy Act, 1997.

*To conclude it would not be out of place to mention that as the default on behalf of the defendant is established without any dispute defendant is not entitled to get any protection as enshrined in **section 7(4) of West Bengal Premises Tenancy Act, 1997 which reads as follows:- "If the tenant makes deposit or pay any amount as required by subsection (1) or sub-section (2), no order for delivery of possession of the premises to the landlord on the ground of default in payment of rent by the tenant shall be made by the controller, but he may allow such cost as he may deem fit to the landlord. Provided that the tenant shall not be provided to any relief under the sub-section if, having obtained such relief once in respect of the premises, he again makes default in payment of rent for four months within a period of 12 or for three***

successive rental period where rent is not payable monthly” and, in such, facts and circumstances, and order for delivery of possession of the suit premises to the landlord can be passed on the ground.

This being the present scenario, it can be hold that the defendant is liable to evicted on the score in terms of section 6 of West Bengal Premises Tenancy Act.

Accordingly this issue under consideration is decided in favour of the plaintiffs.

ISSUE NO. 7,8,9 and 10:

14. Whether the plaintiff reasonably required the suit property?

Whether the plaintiff has sufficient alternative accommodation anywhere?

As the defendant done any act contrary to the provision of clause (m), (o) and (p) of section 108 of T.P. Act?

Whether the defendant wilfully made addition or alteration causing material deterioration of the suit premises, without consent of plaintiff?

In the instant suit the plaintiff has filed this suit on the ground of reasonable requirement as well on the ground of nuisance and on the ground that the defendant being guilty of addition and alteration being guilty of deterioration of the suit premises without consent of the plaintiff.

On scanning of the entire oral testimony Pw-1 as well the documents adduced on behalf of plaintiff I am of view that there is no such evidence adduced by the plaintiff in these regards.

Hence, these issues are decided against the plaintiff.

ISSUE NO. 11 &12:

16. Whether the plaintiff is entitled to get the decree as prayed for?

To what other relief, if any, the parties are entitled to?

Both the issues are taken up for the sake of convenience and brevity.

Plaintiff has been successfully established the suit.

Hence, plaintiff is entitled for decree of eviction on the ground that the defendant has made default in payment of rent and as such plaintiff is entitled to get the relief and other reliefs as per prayer of the plaint.

Adhering the conspectus factual matrix and earlier decided issues, these two issues are decided accordingly.

The issue no.11 and 12 are decided in favour of the plaintiff.

DECISION :

17. The plaintiff succeeds to substantiate his case.

EPILOGUE :

18. In result, the plaintiff succeeded to bring home the bacon.

Court fees paid are found to be proper in terms of section 7(i) of the West Bengal Court Fees Act, 1970.

Hence, it is

ORDERED

that the suit being Ejectment Suit no.601 of 2016 be and same is decreed on contest against the defendant but without order as to costs.

The plaintiff do get a decree of recovery of khas possession of the suit premises as mentioned the schedule of the plaint after evicting the defendant and his men and agents therefrom.

The defendant is hereby directed to quit and vacate the suit premises and delivered the khas possession of the same in favour of the plaintiff within 60 days from the date of this order, in default the plaintiffs are at liberty to put it into execution according to law.

D/C by me

Judge 4th Bench

Judge 4th Bench

Presidency Small Cause Court

J.O Code no. WB001232