

Title Suit 11 of 2026 (Reg. 11 of 2026)

CNRWBSP07-000028-2026

J.O.Code No. WB01066

Order dtd. 08.04.2026.

Today is fixed for hearing of application under section 7 (2) of West Bengal Premises Tenancy Act filed by the defendants on 15.06.2022.

Both parties filed their respective hazira.

Instant application is taken up for hearing.

Heard Ld. Advocate for the defendants who at the time of hearing prays to move one amendment application filed under Section 151 CPC with a prayer to amend the application under Section 7 (2) West Bengal Premises Tenancy Act.

At that time Ld. Advocate for the plaintiffs raised vehement objection on intended hearing of amended application prior to decide that original 7 (2) petition.

Now the application under Section 7 (2) of West Bengal Premises Tenancy Act is taken up for hearing. The defendants in their 7 (2) application contented that the defendants are not defaulter in paying monthly rent and that the rent was paid up to December 2010 and thereafter on refusal of taking rent, the defendants started to deposit the monthly rent to the Rent Controller. In the prayer portion defendants pray before the Court to hold that the defendants are not defaulters in paying monthly rent and if after adjudication the defendants are found defaulter then necessary direction may be given to deposit the arrear rent by way of easy monthly installments.

In their written objection the plaintiffs raised question on maintainability of the instant application under Section 7 (2) of West Bengal Premises Tenancy Act as this is a case under Section 2 (g) and not under Section 6 of West Bengal Premises Tenancy Act.

Ld. Advocate for the defendants at the time of hearing cited one judgment of the Hon'ble Calcutta High Court (ref 2023 (2) in ICC 299 CAL) stating that the application under Section 7 (2) is maintainable even in a case under Section 2 (g) of West Bengal Premises Tenancy Act.

Upon careful reading of the cited judgment of the Hon'ble Court it is crystal clear to this Court that the judgment was passed in an eviction suit which was primarily instituted under Section 6 (1) (b) of West Bengal Premises Tenancy Act and subsequently, Section 2 (g) of the Act was

attracted. In the decision the Hon'ble Court at para 10 was pleased to hold that *“on conjoint perusal of Sections 6 and 7 of the said Act it appears to this Court that it is the legislative intention that whenever a suit for eviction is filed by a landlord against a tenant on any of the grounds referred to in Section 6 of the said Act it is obligatory on the part of the tenant/defendant to take appropriate steps under Sections 7(1) and 7(2) of the said Act which in the instant lis has been rightly done by the present revisionist before the learned trial Court. Such being the position this Court is of the considered view that the learned trial court is not at all justified in rejecting the petition under Section 7 (2) of the said Act as filed by the defendant/revisionist herein without adjudicating the dispute as raised in the said petition on the plea that she has lost the protection to continue her possession in view of the provision of Section 2(g) of the said Act.”*

In view of foresaid observation of the Hon'ble Court it is crystal clear that the right of the tenant under Section 7 (2) of the Act is applicable in a suit filed under Section 6 of the Act and the said right cannot be wiped out only because of subsequent invocation of Section 2(g) of the Act.

But fact of this suit is completely different. The instant suit is originally filed under Section 2(g) of the Act against the dependants of a deceased tenant after lapse of 5 years time frame from the date of death of the original tenant under purview of Section 2(g) of West Bengal Premises Tenancy Act. On bare reading of Section 7 (1) it is crystal clear that Section 7 is applicable only in the suit filed under Section 6 of the West Bengal Premises Tenancy Act.

In another judgment the Hon'ble Calcutta High Court (ref 2022 (2) ICC 466 CAL) cited by the plaintiff, has held at para 10 that on expiry of the period of 5 years from the date of death of the original tenant in terms of Section 2(g) of the West Bengal Premises Tenancy Act the defendants who are the legal heirs of Tenant are deemed to be possessing the shop room, as trespasser and therefore, the plaintiff appears to have filed the said suit against the defendants treating them as trespasser and for their eviction under the Transfer of Property Act.

In view of the solemn judgments referred above and upon considering the facts of the suit as it transpires on bare reading of the plaint, I am of the considered opinion that this is a suit under Section 2(g) of West Bengal Premises Tenancy Act and that Sec 7 (2) of West Bengal Premises

Tenancy Act is not applicable in a suit purely filed under Section 2(g) of the Act.

In view of above, it is held that the application filed under Section 7(2) of West Bengal Premises Tenancy Act dated 15.06.2022 is hereby rejected on contest without any order as to cost.

As a consequence another application filed under Section 7 (1) of West Bengal Premises Tenancy Act pending before the Court is disposed of accordingly.

As such, the amendment application filed under Section 151 CPC filed on 29.08.2024 praying for amendment of 7(2) application became infructuous with the rejection of original 7(2) application. As such, the amendment application dated 29.08.2024 is also disposed of accordingly.

Fixing 28.04.2026 for framing of issues.

D/C by me,

Sd/-
Civil Judge (Sr. Divn.)
Small Causes Court, Sealdah

Sd/-
Civil Judge (Sr. Divn.),
Small Causes Court, Sealdah