

CO. 1586 of 2026

16.06.26
D/L
Sl-32
Ct. 06
(Samar)

Meena Jaiswal & Anr.
Vs.
Bibhuti Bhusan Dutt Estates.

Mr. Sownabho Ghosh,
Mr. Supriyo Banerjee,
Mr. Steven Sourodip Biswas,
... for the petitioners.

1. This revisional application assails an order dated April 08, 2026 passed by the learned Judge, Bench-IV at Presidency Small Cause Court at Calcutta whereby Ejectment Suit No. 154 of 2024 has been directed to proceed *ex parte* against the petitioners' and the petitioners' application under Section 7(2) of the West Bengal Premises Tenancy Act, 1997 has been rejected.
2. Mr. Ghosh, learned advocate appearing for the petitioners submits that the suit was initially set *ex parte* against the petitioners on January 19, 2026 whereafter, the petitioners entered appearance and filed an application for taking the suit off the *ex parte* board as well as seeking time to contest the suit by filing written statement. It is submitted that on February 25, 2026 the petitioners filed applications under Sections 7(1) and 7(2) of the 1997 Act and on the same day, the application

under Section 7(1) of the 1997 Act was allowed.

3. He submits that on that day, next date was fixed for hearing the petitioners' application under Section 7(2) of the 1997 Act.
4. It is further submitted that on April 08, 2026, all on a sudden, the learned Trial Court held that the suit should proceed *ex parte* while observing that the petitioners' application praying for taking the suit off the *ex parte* board was not disposed of.
5. It is next submitted that since the petitioners had filed their application seeking vacating of the order setting the suit *ex parte* and the same could not be disposed of by the learned Trial Court, therefore, the petitioners could not have been faulted either for the pendency of the application or for the non disposal thereof.
6. Mr. Ghosh further submits that in terms of the order passed on the petitioners' application under Section 7(1) of the 1997 Act, the petitioners have already deposited the admitted arrears and are going on depositing the current rent regularly, without fail.
7. Having heard Mr. Ghosh, learned advocate appearing for the petitioners and having perused the material on record, this Court *prima facie* finds substance in the petitioners' case that when the learned Trial Court had allowed the petitioners'

application under Section 7(1) of the 1997 Act and fixed April 08, 2026 as the date for hearing of the application under Section 7(2) thereof, the said application could not have been rejected on the said date on the ground that the application seeking vacation of the order setting the suit *ex parte* against the petitioner had not been disposed of.

8. The application for vacating the order setting the suit *ex parte* against the defendant had been filed on February 07, 2026 and the pendency thereof or the non disposal thereof is not attributable to the petitioners. The learned Trial Court could have taken up the said application and dealt with it in accordance with law but after fixing the application under Section 7(2) of the 1997 Act, the same, in the *prima facie* opinion of the Court, could not be rejected without first dealing with the petitioners' application seeking vacating of the order setting the suit *ex parte* against the petitioners.
9. In such view of the matter, the learned Trial Court is requested to adjourn the proceeding that is to be taken up by the learned Trial Court on the next date to a date later than the date on which this revisional application is hereby made returnable.
10. The petitioners shall serve a copy of the revisional application along with notice on the opposite party intimating the opposite party that

the matter shall be taken up next on July 14, 2026.

11. The petitioners shall file affidavit of service to that effect on the returnable date.

(Om Narayan Rai, J.)