IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE

Before:
The Hon'ble Justice Hiranmay Bhattacharyya

C.O. 2075 of 2025
Anjan Raichaudhuri & Ors.
Vs.
Jyoti Prasad Bagaria

For the Petitioners	: Mr. Sudipta Sarkar, Sr. Advocate Mr. Tilak Kumar Bose, Sr. Advocate Mr. Sayan Roy Choudhury Mr. Prasanta Kumar Dutt Mr. Susanta Kumar Dutt Mr. Sourajya Roy ..... advocates
For the Opposite Party	: Mr. Biswaroop Bhattacharya Mr. Rudrajit Sarkar Mr. Tamoghna Saha Ms. Preksha Manot ..... advocates
Reserved on	: 20.11.2026
Judgment on	: 26.11.2026

Hiranmay Bhattacharyya, J.:-

1. This application under Article 227 of the Constitution of India is at the instance of the plaintiffs and is directed against an order dated January 02, 2025, passed by the learned Civil Judge (Senior Division) 8th Court at Alipore, 24 Parganas (South) in Ejectment Suit no. 35 of 2023.

2. Petitioners filed a suit for eviction inter alia on the ground of default in payment of rent. Opposite party filed an application under Section 7(1) of the West Bengal Premises Tenancy Act, 1997 (for short "the 1997 Act") and

deposited the rent for the period from February 2019 till October, 2023. Opposite party also filed an application under Section 7(2) of the 1997 Act to allow the Opposite party to deposit the amount that may be due from the opposite party.

3. The learned Trial Judge held that the opposite party is a defaulter in payment of rent for the period January, 2015 to January, 2019 and directed the opposite party to deposit the amount specified in the impugned order within the time limit specified therein. Being aggrieved, the plaintiffs have approached this Court.

4. Mr. Sarkar, learned Senior Advocate appearing in support of the civil revision application contended that the tenant is obliged to deposit all admitted arrears of rent within the time limit specified in Section 7 of the 1997 Act. He further contended that default in payment of rent for the period from January, 2015 to January, 2019 is an admitted fact and, therefore, the provisions under Section 7(2) could not have been resorted to by the opposite party as an application under Section 7(2) would lie only in case there is any dispute as to the amount of rent payable by the tenant. Mr. Sarkar placed reliance upon the decisions of the Hon'ble Supreme Court in the case of **Bijoy Kumar Singh and others vs. Amit Kumar Chamariya and another** reported at **(2019) 10 SCC 660** and **Seventh Day Adventist Senior Secondary School vs. Ismat Ahmed and other** reported at **2025 SCC Online (SC) 1696** and the order dated 05.08.2025 in **CO 699 of 2025** in the case of **Sri Jay Prakash Gupta vs. Smt. Ratna Devi and others** and order dated 11.05.2026 in **CO 1969 of 2025** in the case of **Sumit Singh and another vs. Nemai Manna and another** and the order dated 16.06.2025 in **CO No. 2005 of 2025** in the case of **Sk. Mongla vs. Junaid Ahmed** in support of his contention that the time limit fixed under Section 7 of the 1997 Act for deposit of admitted arrears of rent is mandatory and the Court cannot extend the time limit to deposit such amount. He concluded by submitting that the learned Trial Judge exceeded his jurisdiction in directing the opposite party to deposit the admitted arrears of rent within a

specified time limit even after holding that the opposite party is a defaulter in payment of rent.

5. Per contra, Mr. Bhattacharya, learned advocate for the opposite party contended that the opposite party deposited the admitted arrears of rent and filed an application under Section 7(2) of the 1997 Act within the time limit fixed by the statute for determination of the rent payable as there is a dispute as to the amount of rent payable by him. He submitted that the opposite party has disputed that he is a defaulter in payment of rent for the period from 2015 to January, 2019. He placed reliance upon the order dated May 16, 2024 passed in **CO. 586 of 2024** in the case of **Nilima Pal and others vs. Gajadhar Singh** and order dated 02.07.2025 passed in **CO. 359 of 2025** in the case of **Khaitan Consultants Ltd. vs. Daimanti Devi and another** in support of his contention that if a dispute is raised as to the amount of rent payable, the Civil Judge is under a statutory obligation to adjudicate such dispute and specify the amount that may be due from the tenant. He concluded by submitting that the order passed by the learned trial Judge is in accordance with the mandate of Section 7(2) of the 1997 Act.

6. Heard the learned advocates for the parties and perused the materials placed.

7. Section 6 of the 1997 Act starts with a non-obstante clause which overrides anything contrary contained in any other law for the time being in force or in any contract between the parties. Section 6 gives protection to a tenant against eviction inasmuch as it provides that no order or decree for the recovery of possession of any premises shall be made by the Civil Judge in favour of the landlord against the tenant except on a suit instituted by the landlord on one or more of the grounds specified in clauses (a) to (b) of subsection (1) of Section 6. One of the grounds for eviction as specified in clause (b) is where the tenant has made default in payment of rent for three months within a period of twelve months.

8. Petitioners herein filed the instant suit inter alia on the ground that the opposite party/tenant defaulted in payment of rent at least since the year 2015.

9. Section 7 of the 1997 Act states as to when a tenant can get the benefit of protection against eviction. In view of Section 7, the tenant is under an obligation to pay or deposit rent in the manner as specified therein in order to be entitled to protection against eviction in a suit for eviction filed on any of the grounds under Section 6(1).

10. For better appreciation, it would be profitable to recapitulate the provisions of Section 7 of the 1997 Act and the same is extracted hereinafter.

> ***"7. When a tenant can get the benefit of protection against eviction-***
>
> *(1)(a)On a suit being instituted by the landlord for eviction on any of the grounds referred to in section 6, the tenant shall, subject to the provisions of sub-section (2) of this section, pay to the landlord or deposit with the Civil Judge all arrears of rent, calculated at the rate at which it was last paid and up to the end of the month previous to that in which the payment is made together with interest at the rate of ten per cent per annum.*
>
> *(b)Such payment or deposit shall be made within one month of the service of summons on the tenant or, where he appears in the suit without the summons being served upon him, within one month of his appearance.*
>
> *(c)The tenant shall thereafter continue to pay to the landlord or deposit with the Civil Judge month by month by the 15th of each succeeding month, a sum equivalent to the rent at that rate.*
>
> *(2)If in any suit referred to in sub-section (1), there is any dispute as to the amount of the rent payable by the tenant, the tenant shall, within the time specified in that sub-section, deposit with the Civil Judge the amount admitted by him to be due from him together with an application for determination of the rent payable. No such deposit shall be accepted unless it is accompanied by an application for determination of the rent payable. On receipt of the application, the Civil Judge shall, having regard to the rate at which rent was last paid and the period for which default may have been made by the tenant, make, as soon as possible within a period not exceeding one year, an order specifying the amount,*

if any, due from the tenant and, thereupon, the tenant shall, within one month of the date of such order, pay to the landlord the amount so specified in the order.

Provided that having regard to the circumstances of the case, an extension of time may be granted by the Civil Judge only once and the period of such extension shall not exceed two months.

(3) If the tenant fails to deposit or pay any amount referred to in sub-section (1) or sub-section (2) within the time specified therein or within such extended time as may be granted, the Civil Judge shall order the defence against delivery of possession to be struck out and shall proceed with the hearing of the [suit].

(4) If the tenant makes deposit or payment as required by sub-section (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 Civil Judge but he may allow such cost as he may deem fit to the landlord:

Provided that the tenant shall not be entitled to any relief under this 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 twelve months or for three successive rental periods where rent is not payable monthly."

11. Clause (a) of sub-section (1) of Section 7 of the 1997 Act stipulates that in a suit for eviction filed on any of the grounds under Section 6, the tenant shall pay or deposit all arrears of rent calculated at the rate at which it was last paid together with interest at the rate of 10% per annum.

12. Clause (b) stipulates the time limit for making such payment or deposit.

13. Clause (c) obliges the tenant to pay or deposit rent month by month within the time limit indicated therein.

14. Thus, obligation under clause (a) will arise only in cases where the tenant has defaulted in payment of rent for any period prior to the filing of the eviction suit by the landlord. However, obligation under clause (c) is cast upon the tenant irrespective of the fact whether the tenant is in arrears or not. In other words, the tenant is obliged to pay or deposit all arrears of rent and continue to pay current rent month by month.

15. Sub-section (2) of Section 7 contemplates a situation where there is any dispute as to the amount of rent payable by the tenant. Thus, where the tenant raises such a dispute, he shall within the time limit specified in Section 7(1) deposit with the Civil Judge the amount admitted by him to be due from him together with an application for determination of the rent payable. On receipt of such application, the Civil Judge is under a statutory obligation to decide such dispute in accordance with the provisions laid down thereunder and pass an order specifying the amount, if any, due from the tenant and the tenant shall pay such amount within the time limit specified in the order.

16. Sub-section (3) of Section 7 is a penal provision as on the tenant's failure to comply with the provisions of sub-sections (1) or (2) of Section 7, the defence against delivery of possession shall be struck out.

17. Sub-section (4) of Section 7 extends protection to tenants who have complied with the requirements of sub-section (1) or (2) of Section 7. Sub-section (4) provides that if the tenant complies with the requirements under sub-sections (1) or (2) of Section 7, no decree for delivery of possession of the premises to the landlord on the default in payment of rent shall be passed.

18. Sub-section (2) of Section 7 uses the expression " if there is any dispute as to the amount of the rent payable by the tenant". The use of the expression "subject to the provisions of sub-section (2) of this Section" in clause (a) of sub-section (1) of Section 7 makes it abundantly clear that clause (a) of subsection (1) of Section 7 comes into play if there is no dispute as to the amount of rent payable by the tenant and the tenant is thus under an obligation to pay all arrears of rent together with interest within the time limit mentioned under Clause (b).

19. The Hon'ble Supreme Court in **Bijoy Kumar Singh** (supra) held that subsection (1) of Section 7 of the Act relieves the tenant from the ejectment on the ground of non-payment of arrears of rent if he pays to the landlord or deposits it with the Civil Judge within the time limit specified therein all

arrears of rent, calculated in the manner as provided therein. It was further held therein that Section 7 of the Act provides for complete mechanism for avoiding eviction on the ground of arrears of rent provided the tenant takes steps as contemplated under sub-section(2) of Section 7 of the Act and deposits the arrears of rent on determination of the disputed amount.

20. Upon a harmonious reading of various subsections of Section 7 and by applying the proposition of law laid down in **Bijoy Kumar Singh** (supra) this Court holds that in a suit filed under Section 6, if the tenant complies with the provisions of sub-section (1) or (2) of Section 7, the landlord shall not get a decree for delivery of possession on the ground of default in payment of rent provided the case does not fall under the proviso to Section 7(4).

21. Petitioners have alleged in the plaint that the opposite party is a defaulter in payment of rent at least from the year 2015.

22. Opposite party filed an application under Section 7(2) and has denied the allegation that he is a defaulter in payment of rent since 2015. The specific case made out in the said application is that the petitioners on an earlier occasion filed a suit for eviction being Title Suit No. 101 of 2024 and in the said suit the opposite party filed an application under Section 17(2) of the West Bengal Premises Tenancy Act, 1956 and also deposited rent in the said suit till January, 2019 and such amount was withdrawn by the petitioners. The opposite party prayed for adjudication of the dispute raised in the said application and to allow the petitioner to deposit the amount, if any, due.

23. The learned Trial Judge after considering the materials on record returned a factual finding that no summons was issued to the opposite party and he entered appearance in the suit on 13.10.2023; filed applications under Sections 7(1) and 7(2) on 13.10.2023 and deposited the rent for the period from February, 2019 to October, 2023 with interest on 13.10.2023. Such factual finding could not be controverted by Mr. Sarkar in course of hearing of this application.

24. Since the amount admitted to be due from the opposite party was deposited together with an application under Section 7(2) on the date of appearance without the summons being served on him, this Court holds that the learned trial judge was right in holding that applications under Section 7(1) and 7(2) have been filed well within the prescribed period of time.

25. In view of the aforesaid discussion, this Court holds that the decision in the case of **Bijoy Kumar Singh** (supra) cannot come to the aid of the petitioner.

26. In **Seventh Day Adventist Senior Secondary School** (supra), an argument was advanced that proviso appended to Section 7(2) would apply to Section 7(1) also and if there is any delay in filing the application under Section 7(1) and 7(2), the same may be condoned at least once upto two months. In support of such contention paragraph 17 of the decision in the case of **Debasish Paul vs. Amal Boral** reported at (**2024) 2 SCC 169** was relied upon.

27. The Hon'ble Supreme Court held that the compliance as required to be done by the tenant in Section 7(1)(a) (b) (c) and first part of Section 7(2) regarding deposit of rent and filing of application within the stipulated time is mandatory and in default they cannot avail the benefit of the proviso of sub-section (2) which only relates to the payment of the determined amount of rent and whereby the Civil Judge may exercise the discretion to grant extension of time. It was further held therein that the benefit of the proviso with regard to the extended time would not be available prior to rent determination stage.

28. In view of the observations made supra that the deposit of admitted arrears of rent together with the filing of the application under Section 7(2) was within the statutory period, the decision in the case of **Seventh Day Adventist Senior Secondary School** (supra) cannot come to the aid of the petitioner.

29. After reading the application under Section 7(2) of the 1997 Act, to the mind of this Court, the tenant/opposite party raised a dispute as to the amount of

rent payable by the tenant. The opposite party admitted that the amount of rent for the period from February, 2019 till October, 2023 was due from him and stated that he had already deposited the rent till January, 2019 in connection with the earlier suit. Therefore, whether an amount is payable by the opposite party as rent for the period from January, 2015 to January, 2019 is a dispute raised by the opposite party in the application under Section 7(2).

30. This Court is, therefore, not inclined to accept the contention of Mr. Sarkar that the rent for the period from January, 2015 till January 2019 shall fall within the expression "the amount admitted by him to be due from him" used in Section 7(2) as the word "him" used in the said expression undoubtedly refers to the "tenant".

31. In the light of the aforesaid observation, this Court is of the considered view that the rent for the months of January, 2015 to January, 2019 cannot be said to be the amount admitted by the tenant to be due from the tenant.

32. This Court accordingly holds that the preconditions for taking recourse to Section 7(2) namely (i) deposit with the Civil Judge the amount admitted by the tenant to be due from him and (ii) filing of an application for determination of the rent payable has been satisfied in the case on hand.

33. The allegation and counter allegation on the issue of arrears of rent have to be proved by way of producing materials/evidence by the parties to support their respective cases.

34. In the case on hand, challans were placed on record before the learned trial judge in support of the claim that the rent for the period from 2015 till January, 2019 was deposited in the previous eviction suit filed by the petitioners.

35. From the order sheets appended to this Civil Revision Application, it appears that parties were heard in full in respect of the applications under Section 7(1) and 7(2) on 11.12.2024 and 19.12.2024 was fixed for passing orders.

However, the learned trial judge in course of writing order felt that some clarification was required and 02.01.2025 was fixed for clarification.

36. The learned trial Judge in the impugned order recorded that the learned advocate for the defendant submitted that the number of the Title Suit no. 101 of 2004 which was pending before the learned Civil Judge (Junior Divison) 6th Court was inadvertently recorded as Tittle Suit No. 01 of 2004 in the challans filed before the Court and after getting such clarification the order impugned was passed.

37. The learned trial judge has noted that the plaintiff/petitioner has not stated clearly from which month of the year 2015, the defendant is a defaulter and have also not specifically mentioned the rate of rent at which it was last paid. It has only been stated in the plaint that the defendant was inducted as a tenant by the father of the plaintiff by a deed of lease dated 01.06.1978 and the monthly rent was Rs. 1000/-.

38. The learned trial judge after considering the materials on record held that the rate of rent which was last paid is Rs. 1,200/- per month. Neither any material was produced by the petitioner to substantiate that the finding as to the rate of rent suffers from perversity nor any submission was made by Mr. Sarkar attacking such finding. Accordingly, the finding as to the rate of rent calls for no interference.

39. However, the learned trial judge after noting the clarification made by the defendant as to wrong mentioning of the number of the suit in the challans held that default has been made by the opposite party in respect of payment of rent from January, 2015 to January, 2019.

40. After an adjudication of the dispute raised by the opposite party, the learned trial judge held that the opposite party is a defaulter in payment of rent for the period from January, 2015 to January, 2019 and specified the amount due from the tenant/opposite party with a direction to pay such amount within the time limit specified in the impugned order.

41. Mr. Sarkar would strenuously contend that default in payment of rent for the period as indicated in the impugned order is an admitted fact and required no adjudication under Section 7(2).

42. Petitioners have alleged in the plaint that the opposite party has defaulted in payment of rent at least from 2015. However, the opposite party in the application under Section 7(2) made a factual assertion that rent upto January, 2019 has been deposited by the opposite party in an earlier eviction suit. However, the amount on account of rent for the period from February, 2019 till October, 2023, admitted by the opposite party-tenant to be due from him was deposited along with the said application. Thus, a dispute arose as to whether the amount on account of rent from 2015 till January, 2019 is payable by the tenant-opposite party.

43. Onus to prove the fact that the opposite party has deposited the rent for the disputed period in the earlier eviction suit lies upon the opposite party. Opposite party produced challans by way of documentary evidence to prove the fact asserted in the said application. The learned trial judge upon consideration of the materials produced held that the opposite party is defaulter for certain period and passed direction for deposit of such rent.

44. Merely because of the reason that the Civil Judge while deciding the dispute contemplated under Section 7(2) of the 1997 Act, after appreciation of evidence, arrives at a finding and the effect of such finding is that the fact asserted in the application is either “disproved” or “not proved”, such finding cannot *if so facto* convert the dispute into an admitted fact.

45. The decision in the case of **Sk. Mongla** (supra), is distinguishable on facts as in that case the admitted arrears of rent was not deposited along with the application under Section 7(2) and the deposit of such amount after the statutory time limit was sought to be condoned by filing an application under Section 151 of the Code of Civil Procedure.

46. **Jay Prakash Gupta** (supra) is distinguishable on facts as in that case the admitted arrears of rent was not deposited at the time of filing of the application under Section 7(2).

47. In **Sumit Singh** (supra), the co-ordinate bench refused to interfere with the order passed under Section 7(3) in the backdrop of the observation that the assertion of the petitioner therein that they could not approach the Court for passing orders within the specified time failed to inspire the confidence of the Court.

48. In **Nilima Paul** (supra) the delay in filing the applications under Section 7(1) and 7(2) was not condoned by applying the well settled proposition of law that Section 5 of the Limitation Act would not be applicable.

49. The aforesaid decisions do not have any manner of applicability as in the case on hand the application under Section 7(2) was filed within time.

50. In **Khaitan Consultants Limited** (supra) it has been held that Section 7(1) and 7(2) contemplates payment or deposit of rent at the rate at which it was last paid. It was further held that when the statute provides that the tenant shall get the benefit of protection against eviction upon compliance of Section 7(1) and 7(2), the tenant cannot be compelled to pay occupation charges at a rate higher than the rate at which rent was last paid during the pendency of the suit.

51. Mr. Sarkar did not raise any issue as to payment of occupation charges at the current market rate during the pendency of the eviction suit at the time of hearing of this application. Such issue also does not appear to have been raised at the time of hearing of the application under Section 7(2). Since such issue has not been raised at the time of hearing of this application, the decision in **Khaitan Consultants Limited** (supra) is of no assistance for arriving at a decision in this matter.

52. For all the reasons as aforesaid, this Court holds that the learned Trial Judge rightly applied the provisions of law while passing the impugned

order. The impugned order does not suffer from infirmity warranting interference under Article 227 of the Constitution of India.

53. CO No 2075 of 2025 stands dismissed, without, however, any order as to costs.

54. Urgent photostat certified copies, if applied for, be supplied to the parties upon compliance of all formalities.

(HIRANMAY BHATTACHARYYA, J.)