
(2012) 04 CAL CK 0114
In the Calcutta High Court
Case No : C.O. No. 976 of 2008

Sri Anjan Mukherjee

APPELLANT

Vs

Smt. Sunanda Biswas and Others

RESPONDENT

Date of Decision : 18-04-2012

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 39 Rule 7
West Bengal Premises Tenancy Act, 1997 — Section 35, 7(1), 7(2)

Citation : (2012) 04 CAL CK 0114

Hon'ble Judges : Prasenjit Mandal, J

Bench : Single Bench

Advocate : Partha Sarathi Bose, Mr. Debdutta Basu, for the Appellant;

Final Decision : Dismissed

Judgement

Prasenjit Mandal, J.—This application is at the instance of the defendant and is directed against the Order No. s 24 & 25 dated February 8, 2008 passed by the learned Civil Judge (Junior Division), 3rd Court, Alipore in Title Suit No. 228 of 2008 thereby rejecting the applications under Sections 7(1), 7(2) & 35 of the West Bengal Premises Tenancy Act, 1997 and an application under Order 39 Rule 7 of the C.P.C. The said suit was filed by the plaintiff / opposite party herein for recovery of possession by evicting a trespasser and other consequential reliefs. The defendant / petitioner herein is contesting the suit. He filed a written statement and applications under Sections 7(1), 7(2) & 35 of the West Bengal Premises Tenancy Act, 1997 and another application under Order 39 Rule 7 of the C.P.C. All those applications were disposed of by the aforesaid orders. Being aggrieved, this application has been preferred.

2. Upon hearing the learned Advocate for the petitioner and on going through the materials on record, I find that the application suffers from multifariousness. Several applications ought to have been filed in respect of several matters and not in one application raising contentions of all the orders. The learned Trial Judge has rightly passed the impugned orders. The plaintiff has instituted the

aforesaid suit for recovery of possession by evicting of a trespasser from suit premises. This is not at all a suit under the provisions of the West Bengal Premises Tenancy Act and so, the learned Trial Judge was right in rejecting the application under Sections 7(1), 7(2) of the 1997 Act. The application u/s 35 was filed for repair of suit premises and for that purpose, an inspection has been sought for. Since, the suit is not one under the provisions of the West Bengal Premises Tenancy Act, 1997, but against a trespasser, the learned Trial Judge has rightly rejected the application for holding local inspection for the purpose of repair. Accordingly, the application u/s 35 of the 1997 Act has been rightly rejected by the learned Trial Judge.

3. Therefore, I am of the view that there is no ground of interference with the impugned order. The application is not maintainable in its present form on the ground of multifariousness. The learned Trial Judge has not committed errors of law in rejecting the aforesaid applications. Accordingly, there is no scope of interference with the impugned order.

4. The revisional application is devoid of merits and is, therefore, dismissed. Urgent xerox certified copy of this order, if applied for, be supplied to the learned Advocates for the parties on their usual undertaking.