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(2013) 09 CAL CK 0092

Calcutta High Court

Case No: Writ Petition No. 18636 (W) of 2010

Sri Balkrishna Shroff

APPELLANT

Vs

State of West Bengal  
and Others

RESPONDENT

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**Date of Decision:** Sept. 13, 2013

**Acts Referred:**

- West Bengal Premises Tenancy Act, 1997 - Section 21, 21(7)

**Hon'ble Judges:** Sambuddha Chakrabarti, J

**Bench:** Single Bench

**Advocate:** Sujit Bhattacharya and Mr. Himangshu Ghosh, for the Appellant; Tapas Kumar Hazra and Mr. S. Bhattacharya, Advocates for the Respondent No. 5, for the Respondent

**Final Decision:** Allowed

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**Judgement**

Sambuddha Chakrabarti, J.

The petitioner is the owner of a premises in the district of Howrah which is a fully tenanted property. Against some of the tenants the petitioner has filed eviction suits and at least six of such tenants are depositing rents before the Rent Controller, Howrah. The grievance of the petitioner is that the Rent Controller is under a duty to intimate the effect of such deposit by the tenants to the landlord immediately so that the same may be withdrawn by him. The petitioner says that he came to know of it about 17 years after the date of deposit whereas the respondent authority was bound to intimate the same within six months from the date of such deposit.

2. The petitioner has calculated that about Rs. 80,000/- is lying with the Rent Controller, Howrah and the petitioner has been deprived of earning his interest on the said account for about 16 years. By a letter dated January 4, 2007 the petitioner asked the concerned respondent authority to pay him interest on the total amount of rent deposited by the tenants at the prevailing bank rate. Thereafter the petitioner made several representations to the appropriate authorities to the same effect. Since they did not

produce any result he moved the High Court by filing a writ petition. The petitioner previously filed a writ petition when by an order dated December 19, 2001 a learned single judge of this court had inter alia directed the petitioner to accept all the deposits made in his favour without prejudice to his rights and contentions to claim interest on the delayed payment.

3. Subsequently, by a letter dated November 9, 2009 the petitioner requested the District Magistrate, Howrah for an early release of the money and to comply with the order of the court. By this writ petition the petitioner has prayed for a writ in the nature of Mandamus for payment of interest at the rate of 12 per cent. on the amount of rents so far deposited by different tenants the particulars of which have been given in this petition and for other reliefs.

4. On behalf of the respondent no. 5, i.e., Accountant General of West Bengal, an affidavit has been affirmed by the Senior Deputy Accountant General (Accounts and VLC). In the said affidavit the deponent states that as per the records maintained at the office of the Principal Accountant General (Accounts and Entitlement) no claim application for refund of rent deposited (lapsed) along with the statement for the concerned period has been received in terms of the Gazette Notification dated June 16, 2009. According to the said deponent deposits under the head of the accounts mentioned therein of P & L accounts of the Rent Controller is deposited which does not bear interest. The deponent has asserted that the petitioner is not entitled to claim any interest.

5. Section 21 of the West Bengal Premises Tenancy Act, 1997 deals with the manner of deposit of rent with the Controller by a tenant. Section 21 lays down the conditions to be specified before the tenant can deposit rent with the Controller.

6. In Section 21(7) of the West Bengal Premises Tenancy Act, 1997 it has been provided that on such deposit of rent the Controller shall send in the prescribed manner the copy or copies of the application to the landlords or persons claiming to be entitled to the rent with an endorsement showing the date of deposit. Such endorsement being authenticated by the seal of the office and the signature of the Controller or some other officer authorized by him in this behalf. Such authenticated copy of the application shall be admissible in evidence in any court.

7. Thus the duty is really cast upon the Controller to send copies of the application which has to convey that deposit of rent to the tenant in due time. If he does not do so then there is an infraction of duty and if there is an infraction of duty the petitioner has suffered for the lapses on the part of the statutory authority. We are not here to quantify the exact sum so deposited. But the negligence on the part of the respondents attract interest which the petitioner could have earned had it been intimated to him in due time and if he could withdraw the said amount. The stand taken by the respondent No. 5 that such deposits have been made in a P & L account which does not bear any interest is hardly any consolation to the petitioner. A landlord is not supposed to know in which account a

certain sum is deposited. If we look at it from the perspective of a person who has not received payment which he was supposed to receive it, it is too obvious that he could not earn the interest only because of the lapses on the part of the respondents. We cannot lose sight of the fact that the Rent Controller has not filed any opposition and, therefore, he must be taken to have admitted the pleadings in the writ petition as he did not controvert the same.

8. The Controller is, therefore, directed to calculate the principal sum and to release the same positively within a period of four weeks from the date of the communication of the order, if not already released. The petitioner is further entitled to an interest at the rate of 10 per cent. from the date of such accrual till the exact date of payment. The entire exercise should be completed within four weeks from the date of the communication of the order.

9. The writ petition is thus, allowed.

10. There shall, however, be no order as to costs. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties on priority basis upon compliance of all requisite formalities.