OFFICE OF THE PRINCIPAL DISTRICT JUDGE:: KURNOOL

Dis.No.3073/Estt/2025 Dated 04-06-2024

Letter of the Hon'ble High Court of Andhra Pradesh ROC No.394/SO/2025, dated 14-05-2024 along with copy of Order, dated 07-04-2025 in Special Leave Petition (Civil) No.9975 of 2025 (Diary No.8323 of 2025) passed by the Hon'ble Supreme Court of India (Extra ordinary Civil Jurisdiction), is herewith communicated.

All the Judicial Officers working in Kurnool District are requested to download Letter of the Hon'ble High Court of Andhra Pradesh ROC No.394/SO/2025, dated 14-05-2024 along with copy of Order, dated 07-04-2025 in Special Leave Petition (Civil) No.9975 of 2025 (Diary No.8323 of 2025) passed by the Hon'ble Supreme Court of India (Extra ordinary Civil Jurisdiction) from the District Court website i.e., website i.e.,**https://kurnool.dcourts.gov.in**.

All the Judicial Officers are requested to submit the compliance report after downloading the above copy without fail.

4/6/2025

VI Additional District Judge,
I/c. PRINCIPAL DISTRICT JUDGE,
KURNOOL.

To,

All the Judicial Officers in Kurnool District.

The Secretary, District Legal Services Authority, Kurnool.

The Senior Superintendent (Accounts), Principal District Court, Kurnool.
The Civil Bench Clerk, Principal District Court, Kurnool.
The Stenographer Grade-I, Principal District Court, Kurnool.

The System Officer, District Court, Kurnool, with a direction to upload the same in the District Court's Official website.

V. SREENIVASA SIVA RAM
REGISTRAR (VIGILANCE)
I/c. REGISTRAR GENERAL

AMARAVATI
(Off) :0863 2372613
(Telefax):0863 2372631

ROC No.394/SO/2025 **Dated 14.05.2025**

To

All the Principal District Judges
in Andhra Pradesh.

Sir/Madam,

DISTRICT & SESSIONS COURT 02 JUN 2025 CHIEF ADMN OFFICER KURNOOL-518 001

Sub: High Court of Andhra Pradesh – Copy of Order dated 07.04.2025 in Special Leave Petition (Civil) No. 9975 of 2025 – Communicated – Reg.

Ref: Letter dated 15th April, 2025 along with copy of Order dated 07.04.2025 in Special Leave Petition (Civil) No. 9975 of 2025.

*****

Adverting to the subject and reference cited, as directed, I am to forward herewith the copy of Order dated 07.04.2025 in Special Leave Petition (Civil) No. 9975 of 2025, for information and necessary action, if any.

Further, I also request you communicate the same to all the Judicial Officers in your Unit and to the Presiding Officers of Labour Courts/Tribunals in the District working under the control of the High Court, for information and compliance of the directions issued therein.

Yours sincerely,

I/c. **REGISTRAR GENERAL**

Encl: As stated.

R.No. 4492
2/6/25

REPORTABLE

IN THE SUPREME COURT OF INDIA
EXTRAORDINARY CIVIL JURISDICTION

SPECIAL LEAVE PETITION (CIVIL) 9975 OF 2025
(DIARY NO. 8323 OF 2025)

Rajiv Ghosh .....Petitioner

Versus

25052890

Satya Naryan Jaiswal .....Respondent

ORDER

1. Delay condoned in filing Special Leave Petition.

2. This petition arises from the judgment and order passed by the High Court at Calcutta (Civil Appellate Jurisdiction) dated 14.11.2024 in FAT 7 of 2024 with IA No. CAN 1 of 2024 by which the appeal filed by the petitioner-herein came to be dismissed thereby affirming the judgment and decree of eviction passed by the Vth Bench, City Civil Court at Calcutta, District Calcutta dated 2nd December 2023 in title suit no. 1068 of 2021.

3. For the sake of convenience, the petitioner-herein shall be referred to as original defendant and the respondent-herein shall be referred to as original plaintiff.

4. It appears from the materials on record that the plaintiff is the lawful owner of the suit premises in which the defendant claims to be the lawful

tenant. The plaintiff instituted title suit no. 1068 of 2021 for recovery of possession and mesne profits against the defendant. The father of the defendant, Late Ranjan Ghosh was a regular tenant under the plaintiff in respect of the suit premises at a monthly rent of Rs. 1700 including corporation taxes.

5. Ranjan Ghosh, the original tenant passed away on 13.07.2016. It appears that the defendant being the son of Ranjan Ghosh was residing in the suit premises up to the date of demise of his father.

6. The plaintiff served a notice dated 20th July 2018 to the defendant informing him that since the original regular tenant, Ranjan Ghosh passed away on 13.07.2016 and the defendant being the son of the regular tenant who at the time of demise of the regular tenant was residing in the scheduled property he can at best take the benefit of his statutory right of inherited tenancy up to 5 years from the date of death of his father, Ranjan Ghosh on 13.07.2016.

7. The notice further informed the defendant that he cannot be regarded as tenant within Section 2(g) of the West Bengal Premises Tenancy Act, 1997.

8. The said notice was received by the defendant on 21.07.2018, however, the defendant failed to give any satisfactory reply.

9. In such circumstances referred to above, the plaintiff had to institute the title suit for recovery of the possession. The defendant filed his written statement and in the same he is said to have admitted few facts arising

thereof. The defendant in his written statement admitted the following claims of the plaintiff.

a) the defendant unequivocally admitted in paragraph no. 10(a) of his written statement that Ranjan Ghosh was the sole tenant in respect of the suit property. The said Ranjan Ghosh passed away in 13.07.2016 leaving behind the defendant as his heir and legal representative.
b) The defendant admitted that the plaintiff is the owner of the scheduled property and the rent was paid till May 2021 to the plaintiff.

10. In view of the aforesaid admissions made by the defendant in his written statement, the plaintiff preferred an application before the trial court under Order XII Rule 6 of the Civil Procedure Code and prayed for a decree upon admission.

11. The application filed by the plaintiff under Order XII Rule 6 of the CPC was opposed by the defendant by filing reply which reads thus:

"1. That the said application is neither maintainable in law nor on facts and the same is bad, frivolous, vexatious, baseless, unfounded and misconceived as such the said application is liable to be rejected with cost to the defendant.
2. That there is no admission in the pleadings on behalf of the defendant, C.P. Code does not define the expression "admission" Section 17 of the Indian Evidence Act defines admission as a statement made in the oral, documentary or electronic form suggesting an inference to a fact in issue or relevant fact. Section 23 of the Indian Evidence Act lists the circumstances under which an admission will be relevant in civil cases. However, the proviso to the Section states that the Court has discretionary power to require the alleged admitted, facts to be proven by means other than such admission. It is pertinent to note that the Rule provides that Court "may" pass a judgment or order based on the admission. Thus, it is clear that the legislative intent is to confer a discretionary power of the Court and judgment based on admission cannot be clarified as a matter of right. The legislative intent is further clarified by the proviso to Order 6 Rule 5. The

proviso provides that even, where a fact has been admitted by an admission, the Court has discretionary power to require the admitted fact to be proved by any other means.

3. That the defendant states that there are material issues involved in the instant suit which are very much triable therefore, the Ld. Court should not, proceed with the passing, a decree under Order 12 Rule 6 of C.P.Code. In order to fair disposal of the instant suit, the instant suit needed to be decided by a full fledged trial and an opportunity to be given the defendant to lead evidence for the interest of justice, therefore, the said application is liable to be rejected in limine.

4. With reference to the statements made in paragraph Nos. 1, 2 and 3 of the said application, the defendant denies the same save and except what are matters of record and calls, upon the plaintiff to strictest proof thereof.

5. With reference to the statements made in paragraph Nos. 5 and 6 of the said application, the defendant denies the same save and except what are matters of record and calls upon the plaintiff to strictest proof thereof. The defendant states that by his Written Statement, filed in Court has been categorically challenged the allegations made by the Plaintiff which is required to be proved by way of an evidence by the parties of this suit.

6. With reference to the statements made in paragraph No. 7 of the said application, the defendant denies the same save and except what are matters of record.

7. With reference to the statements made in paragraph No. 8 of the said application, the defendant denies the same.

8. With reference to the statements made in paragraph No. 9 of the said application, the defendant denies the same save and except what are matters of record and calls upon the plaintiff to strictest proof thereof.

9. With reference to the statements made in paragraphs No. 10, 11 and 12 of the said application, the defendant denies the same. The defendant denies that he admitted anything in his pleadings that the defendant is a trespasser as alleged, on the other hand, he categorically stated that he is a tenant in respect of the suit premises and he paid rent to the plaintiff in respect of the suit premises. Moreover, the defendant filed an application u/s 7(1) & 7(2) of the W.B.P.T. Act before this Ld. Court for payment of current rent as well as arrears rent if any due and payable and those

applications are pending before this Ld. Court. The defendant states that the facts of this case as made out in the plaint should be considered by this Ld. Court as a whole for the interest of justice because the cause of action of this suit arose on the bundle of facts. The defendant never admitted in pleadings that he is enjoying the suit premises as trespassed. Therefore, without taking an evidence, the instant suit cannot be adjudicated properly, therefore the said application is liable to be rejected with cost.
It is prayed that the said application be rejected with cost."

12. The trial court adjudicated the application and ultimately decreed the suit having regard to the specific admissions made by the defendant.

13. The defendant being dissatisfied with the decree passed by the trial court based on admissions challenged the same before the High Court by filing FAT No. 7 of 2024. The High Court dismissed the FAT holding as under:

"12. According to the said clause, the dependent heir of the original tenant, unless she is the widow of the original tenant, is entitled to carry on as a tenant [coming within the definition of "tenant" as defined in Section 2(g)] to continue in such capacity for a period of 5 years from the demise of the original tenant
13. Hence, although the defendant has not pleaded in the Written statement that he was a dependent of the: original tenant, which should have further cut short his period of tenancy, even proceeding on the premise that the defendant was a dependent, he, being the Son of the original tenant, would be :entitled to sustain his tenancy in such capacity only up to the, expiry of a period- of 5 years from the demise of the original tenant.
14. From the pleadings in the written statement, it is evident that the said period was already over at the time of institution of the suit, since the original tenant, his father Ranjan Ghosh, met his demise on July 13, 2016.
15. It is further admitted in the written statement that the landlord/plaintiff, quite rightly, stopped accepting rent, from the defendant after May, 2021 i.e. after the expiry of the said period

of five years from the death of the original landlord.

16. Hence, the pleadings in the written statement comprise of sufficient ingredients to bring the defendant within the fold of Section 2(g) of the 1997 Act.

17. It may be clarified here that, it is well-settled that law of legal 'arguments need not be pleaded in the pleadings, either by way of a plaint or a written statement.

18. As such, the defendant need not have specifically pleaded, the applicability of Section 2(g) of the 1997 Act for the purpose of the pleading to acquire the Character of an admission, for the purpose of Order XII Rule 6 of the Code. It would suffice, as in the present case, if the necessary factual ingredients to satisfy Section 2(g) are pleaded in the written statement, for it to be deemed to be an admission that the defendant comes within the purview of Section. 2(g).

19.That is precisely the case here.

20. In the event the defendant comes within Section 2(g) of the 1997 Act, nothing remains to be adjudicated further in the. suit, since the defendant is automatically relegated to the status of a trespasser, and the plaintiff immediately becomes entitled to get a decree for eviction in the absence of any further of independent right having been claimed by the defendant.

21.The defendant, in the written statement, claims entirely through his father, the original tenant. The pleading as to there being a talk of a fresh tenancy being granted in favour of the defendant is neither here nor there since even the said pleading does not tantamount to-establish that a new tenancy has already been created in favour of the defendant, in which case, the outcome of the litigation might have been otherwise.

22. As such, the learned Trial Judge was fully justified in resorting to Section 2(g) of the 1997 Act, read with Order XII Rule 6 of the Code of Civil Procedure, to come to the finding that the plaintiff automatically gets entitled to a decree for eviction by way of a judgment on admission.

23. In such view of the matter, we do not find any justification to interfere with the impugned judgment and decree.

24. Accordingly, FAT 7 of 2024 is dismissed on contest, thereby affirming the judgment and decree dated December 2, 2023 passed by the learned Judge, Fifth Bench, City Civil Court at Calcutta, District- Calcutta in Title Suit No. 1068 of 2021.

25.There will be no order as to costs.

26. Keeping in view the pendency of the appeal till now, the defendant/appellant is granted a further period of three months to vacate the premises in favour of the plaintiff/respondent. The pending execution n case shall remain stayed for such period.

27. In the event the defendant/appellant does not vacate the premises within the said period, of three months from this date, the plaintiff/decree holder will be at liberty to proceed with the execution case and the same will be expedited by the executing court.

28. Interim order, if any, stands vacated.

29. A formal decree be drawn up accordingly."

14. In such circumstances referred to above, the defendant is here before this Court with the present petition.

15. We heard Mr. Ramnath Jha, the learned counsel appearing on behalf of the petitioner.

16. Section 2(g) of the 1997 Act reads thus:

"2. Definitions." In this Act, unless there is anything, repugnant in the subject or context,

(g) "tenant" means any person by whom or on whose account or behalf the rent of any premises is or, but for a special contract, would be payable, and includes, any person continuing in possession after termination of his tenancy and, in the event of death of any tenant, also includes, for a period not exceeding five years from the date of death of such tenant or from the date of coming into force of this Act, whichever is later, his spouse, son, daughter, parent and the widow of his predeceased son, who were ordinarily living with the tenant up to the date of death of the tenant as the members of his family and were dependent on him and who do not own or occupy any residential premises, and in respect of premises let out for non-residential purpose his spouse, sort, daughter and parent who were ordinarily living with the tenant up to the date of his death as members of his family,

and were dependent on him or a person authorised by the tenant who is in possession of such premises but shall not include any person, against whom any decree or order for eviction has been made by a Court of competent jurisdiction:
Provided that the time-limit of five years shall not apply to the spouse of the tenant who was ordinarily living with the tenant up to his death as a member of his family and was dependent on him and who does not own of occupy any residential premises: Provided further that the son, daughter, parent or the widow of the predeceased son of the tenant who was ordinarily residing with the tenant in the said premises up to the date of death of the tenant as a member of his family and was dependent on him and who does not own or occupy any residential premises, shall have a right of preference for tenancy, in a fresh agreement in respect of such premises on condition of payment of fair rent. This proviso shall apply mutatis mutandis to premises let out for non-residential purpose."

17. Thus, the plain reading of Section 2(g) referred to above would indicate that the dependent heir of the original tenant unless she is the widow of the original tenant would be entitled to carry on as a tenant [coming within the definition of *"tenant"* as defined under Section 2(g)] in such capacity for a period of 5 years from the demise of the original tenant.

18. In the case on hand, the defendant is the son of the original tenant. It is not in dispute that he claims his right to continue as a tenant in the suit premises through his father i.e. the original tenant.

19. Order XII Rule 6 of the CPC reads thus:

6. Judgment on admissions.—(1) Where admissions of fact have been made either in the pleading or otherwise, whether orally or in writing, the Court may at any stage of the suit, either on the application of any party or of its own motion and without waiting for the determination of any other question between the parties, make such order or give such judgment as it may think fit, having regard to such admissions.

(2) Whenever a judgment is pronounced under sub-rule (1) a decree shall be drawn up in accordance with the judgment and the decree shall bear the date on which the judgment was pronounced.

LEGISLATIVE CHANGES

20. By the Code of Civil Procedure (Amendment) Act, 1976, the following changes had been effected:

(1) Original Rule 6 had been substituted and redrafted into sub-rule (1) and

(2) Sub-rule (2) had been newly inserted,

OBJECT OF AMENDMENTS

21. Rule 6, as originally enacted, enabled a court to pronounce judgment or admission "either in pleading or otherwise". It read thus:

"6. Judgment on admissions.— Any party may, at any stage of a suit. where admissions of facts have been made, either on pleadings or otherwise, apply to the Court for such judgment or order as upon such admissions he may be entitled to, without waiting for the determination of any other question between the parties and the Court may upon such application make such order or give such judgment, as the Court may think just."

22. The Law Commission considered the provision. With a view to clarify the position as to admission and also to empower the court to pronounce a judgment: *suo motu* and to draw a decree on such judgment, recommended to modify the rule. It stated:

"Where a claim is admitted, a court has jurisdiction under Order XII Rule 6 to enter a judgment for the plaintiff, and to pass a decree on the admitted claim (with liberty to the plaintiff to proceed with the suit in the ordinary way as to the remainder of the claim).

The object of the rule is to enable a party to obtain speedy judgment, at least to the extent of the relief to which, according to the admission of the defendant, the plaintiff is entitled.

The rule has been held to be wide enough to cover oral

admissions. The use of the words 'or otherwise' in Rule 6, without the words 'in writing' which are used in Rule 1 of Order XII, shows that a judgment may be given even on an oral admission. It is desirable to codify this interpretation.

It may be noted that under the present rule, a judgment on admission can be passed only on an application. According to a local amendment. the Court may, on the application of any party or of its own motion, make such order or give such judgment. This is a useful amendment, and should be adopted.

In our view, it is also desirable to provide that a decree shall follow or » judgment on admissions." (See: Law Commission's Fifty-fourth Report, p. 145)

23. In Statement of Objects and Reasons, it had been stated:

"Clause 65, sub-clause (ii)- Under Rule 6, where a claim is admitted, the Court has jurisdiction to enter a judgment for the plaintiff and to pass a decree on the admitted claim. The object of the rule is to enable a party to obtain speedy judgment at least to the extent of relief to which, according to the admission of the defendant, the plaintiff is entitled. The rule is wide enough to cover oral admissions. The rule is being amended to clarify that oral admissions are also covered by the rule" (See: Notes on Clauses, Gazette of India, dt. 08-04-1974, Pt. II, S.2, Extra., p. 316)

24. Rule 6(1) empowers the court to pronounce a judgment upon admissions made by parties without waiting for the determination of other questions.

25. Rule 6(2) states that a decree shall be drawn up in accordance with the judgment.

26. The primary object underlying Rule 6 is to enable a party to obtain speedy judgment at least to the extent of admission. Where a plaintiff claims a particular relief or reliefs against a defendant and the defendant makes a plain admission, the former is entitled to the relief or reliefs admitted by the latter. [See: Uttam Singh v. United Bank of India, (2000) 7 SCC 120]

27. As observed in the Statement of Objects and Reasons for amending Rule 6, *"where a claim is admitted, the court has jurisdiction to enter a judgment for the plaintiff and to pass a decree on admitted claim. The object of the Rule is to enable the party to obtain a speedy judgment at least to the extent of the relief to which according to the admission of the defendant, the plaintiff is entitled."*

28. The provisions of Rule 6 are enabling, discretionary and permissive. They are not mandatory, obligatory or peremptory. This is also clear from the use of the word "may" in the rule.

29. The powers conferred on the court by this rule are untrammeled and cannot be crystallized into any rigid rule of universal application. They can be exercised keeping in view and having regard to the facts and varying circumstances of each case.

30. If the court is of the opinion that it is not safe to pass a judgment on admissions, or that a case involves questions which cannot be appropriately dealt with and decided on the basis of admission, it may, in exercise of its discretion, refuse to pass a judgment and may insist upon clear proof of even admitted facts.

31. To make order or to pronounce judgment on admission is at the discretion of the court. First, the word "may" is used in Rule 6 and not the word "shall" which prima facie shows that the provision is an enabling one. Rule 6 of Order 12 must be read with Rule 5 of Order 8 which is identical to the Proviso to Section 58 of the Evidence Act. Reading all the relevant

provisions together, it is manifest that the court is not bound to grant relief to the plaintiff only on the basis of admission of the defendant. (See: Sher Bahadur v. Mohd. Amin, AIR 1929 Lah 569)

32. In the leading decision of **Throp v. Holdsworth, Jessel, reported in (1876)3 Ch D 637 (640)** M.R. said: "This rule enables the plaintiff or the defendant to get rid of so much of the action, as to which there is no controversy."

33. In **Uttam Singh (Supra)** the plaintiff bank filed a suit for recovery of a large sum of money against the defendant. It also filed an application under Order 12, Rule 6 for judgment upon admission in respect of part of claim. The application was allowed and a decree was passed. An appeal against the decree was also dismissed by the High Court. The defendant approached this Court. It was contended before this Court by the defendant that (i) Rule 6 of Order 12 covers only those admissions made in pleadings; (ii) the effect of the admissions can only be considered at the trial of the suit; and (iii) the provision of Order 12, Rule 6 must be read along with the provisions of Order 8 and the court should call upon the plaintiff to prove its case independent of so called admissions.

34. Negativing the contentions and referring to the object of Order 12, Rule 6, the Court observed that *"where a claim is admitted, the court has jurisdiction to enter a judgment for the plaintiff and to pass a decree on admitted claim. The scope of Rule 6 should not be narrowed down where a party applying for judgment is entitled to succeed on a plain admission of the opposite party. The admission by the defendant was clear, unambiguous,*

unequivocal and unconditional. The courts below were, therefore, right in decreeing the suit of the plaintiff."

35. The words "or otherwise" are wide enough to include all cases of admissions made in the pleadings or *de hors* the pleadings. Under Rule 6, as originally enacted, it was held that the words "or otherwise" without the words "in writing" used in Rule 1 showed that a judgment could be given upon oral or verbal admission also. [See: Beeny, re, (1894) 1 Ch D 499] The Amendment Act of 1976, however, made the position clear stating that such admissions may be "in the pleading or otherwise" and "whether orally or in writing". Thus, after the amendment in Rule 6, the admissions are not confined to Rule 1 or Rule 4 of Order 6, but are of general application. Such admissions may be express or implied (constructive); may be in writing or oral; or may be before the institution of the suit, after the suit is brought or during the pendency of proceedings.

36. A Division Bench of the Delhi High Court very correctly laid down the following interpretation of the provision of O. 12, R. 6, CPC, in the decision of ITDC Limited v. Chander Pal Sood and Son, reported in (2000) 84 DLT 337 (DB): (2000 AIHC 1990):

> *"Order 12, R. 6 of Code gives a very wide discretion to the Court. Under this rule the Court may at any stage of the suit either on the application of any party or of its own motion and without determination of any other question between the parties can make such order giving such judgment as it may think fit on the basis of admission of a fact made in the pleadings or otherwise whether orally or in writing."*

37. The use of the expression 'otherwise' in the aforesaid context came to be interpreted by the High Court. Considering the expression the Court interpreted the said word by stating that it permits the Court to pass judgment on the basis of the statement made by the parties not only on the pleadings but also dehors the pleadings i.e. either in any document or even in the statement recorded in the Court. If one of the parties' statement is recorded under O. 10, Rr. 1 and 2 of the Code of Civil Procedure, the same is also a statement which elucidates matters in controversy. Any admission in such statement is relevant not only for the purpose of finding out the real dispute between the parties but also to ascertain as to whether or not any dispute or controversy exists between the parties. Admission if any is made by a party in the statement recorded, would be conclusive against him and the Court can proceed to pass judgment on the basis of the admission made therein.

38. Rule 6 of Order XII, before the amendment, allowed judgment on admission only on an application by a party. The Law Commission, however, suggested that a judgment may be pronounced either on an application by a party or even *suo motu* [See: Throp (supra)]

39. This rule authorizes the court to enter a judgment where a claim is admitted and to pass a decree on such admitted claim. This can be done at any stage. [See: Uttam Singh (supra)]. Thus, a plaintiff may move for judgment upon admission by the defendant in his written statement at any stage of the suit although he has joined issue on the defence." [See: Brown v. Pearson, (1882) 21 Ch D 716]. Likewise, a defendant may apply for dismissal of the suit on the basis of admission by the plaintiff in rejoinder.

40. The court may, in an appropriate case, give a judgment at an interlocutory stage of the proceedings on admission by a party. [See: Balraj Taneja v. Sunil Madan, (1999) 8 SCC 396]. But if the case involves questions which cannot conveniently be disposed of at a motion stage, the court may not give judgment at that stage. [See: Simla Wholesale Mart (Supra)]

41. Sub-rule (2) of Rule 6 as inserted by the Code of Civil Procedure (Amendment) Act, 1976 requires the court to draw up a decree in accordance with the judgment on admission. Sub-rule (2) is thus consequential and logical sequence to sub-rule (1).

42. Since the object of sub-rule (1) is to enable the plaintiff to get judgment on admission of the defendant to the extent of such admission, he must get the benefit thereof immediately without waiting for the determination of "non-admitted claim". Sub-rule (2) makes it imperative for the court to draw up a decree in terms of judgment on admission which can be executed by the plaintiff." [See: Uttam Singh (supra)]. In such cases, there may be two decrees; (i) in respect of admitted claim; and (ii) in respect of "non-admitted" or contested claim. [See: Bai Chanchal v. United Bank of India, AIR 1971 SC 1081].

43. A decree under Rule 6 may be either preliminary or final. [See: Sivalinga v. Narayani, AIR 1946 Mad 151]

44. We are of the view having regard to the clear and unequivocal admission made by the defendant in his written statement, the High Court committed

no error much less any error of law in decreeing the suit applying Order XII Rule 6 of the CPC.

45. At this stage we should take note of the submission canvassed by the learned counsel that the petitioner is not governed by the provisions of the West Bengal Premises Tenancy Act, 1997 and therefore the entire discussion as regards Section 2(g) of the Act, 1997 was unnecessary. In other words, the attempt on the part of the learned counsel is to persuade us to accept the argument that if Section 2(g) of the Act, 1997 is not applicable then in such circumstances the petitioner has a right to continue in occupation of the premises in question as the legal heir of the original tenant.

46. We are afraid, we are not impressed with the submission canvassed by the learned counsel as noted above. We take notice of the fact that this point was never raised or argued before the High Court. We wonder if it was at all argued even before the trial court. We called upon the learned counsel to point out from the reply filed by the petitioner to the application filed by the respondent under Order XII Rule 6 of the CPC that this point was raised before the High Court. There is nothing in the objections/reply of the petitioner to indicate that such contention was ever raised. On the contrary, para 9 of the reply filed by the petitioner-herein which we have incorporated in para 11 of this order clinches the issue. In para 9 of the reply to the application filed by the plaintiff under Order XII Rule 6 of the CPC it is stated thus:-

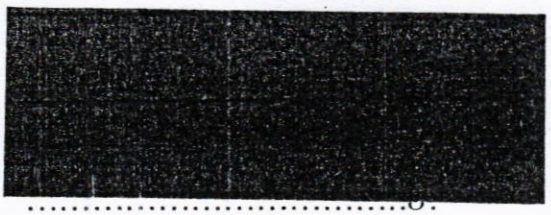
> *"Moreover, the defendant filed an application u/s 7(1) & 7(2) of the W.B.P.T. Act before this Ld. Court for payment of*

current rent as well as arrears rent if any due and payable and those applications are pending before this Ld. Court."

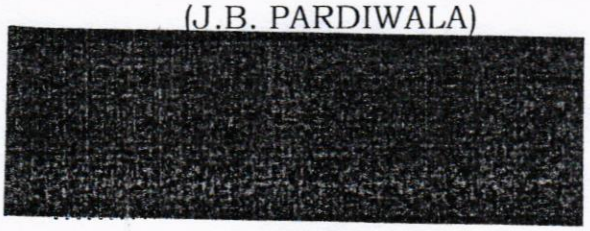
If according to the petitioner the provisions of the Act, 1997 are not applicable then what was the good reason for him to file the application under Sections 7(1) & (2) of the Act, 1997 respectively.

47. In view of the aforesaid, this petition fails and is hereby dismissed.

48. Registry shall circulate one copy each of this order to all the High Courts and the High Courts in turn shall circulate the order in their respective District judiciary.



(J.B. PARDIWALA)



(R. MAHADEVAN)

New Delhi
07.04.2025

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION (CIVIL) NO. OF 2025

[WITH PRAYER FOR INTERIM RELIEF]

(Arising out of the Order dated 14.11.2024 passed in FAT 7 of 2024 passed by the Hon'ble Calcutta High Court)

IN THE MATTER OF:

BETWEEN

POSITION OF PARTIES

		HIGH COURT	SUPREME COURT
1.	Sri Rajiv Ghosh Son of Late Ranjan Ghosh Residing at Premises No. 77/1 A, Park Street, Flat No. 21, 4th Floor, Post Office and Police Station Park Street, Kolkata-700016, Ph:-9830081485, E Mail. Baba.rajiv@gmail.com	Petitioner	Petitioner

Versus

1. Sri Satya Narayan Jaiswal s/o of Late Jay Prakash Jaiswal, R/o 1 B, Guru Prasad Chowdhury Lane, Police Station-Amherst Street, Kolkata 700006	Respondent	Respondent

TO

THE HON'BLE CHIEF JUSTICE OF INDIA

AND HIS COMPANION JUSTICES OF

THE HON'BLE SUPREME COURTOF INDIA.

THE HUMBLE PETITION OF THE PETITIONER

MOST RESPECTFULLY SHOWETH:

1. The instant Special Leave Petition is being preferred by the petitioner herein for Special Leave to Appeal under Article 136 of the Constitution of India against final order and judgment dated 14.11.2024 in FAT No. 7 of 2024 passed by the Hon'ble High Court of Calcutta at Calcutta affirming judgment and decree passed Ld. Trial Court on 02.12.2023 under Order XII Rule 6 of CPC.

That undoubtably the Respondent is the owner of Flat No. 21, on Fourth Floor consisting of 2(two) -ms hall one kitchen and two bathrooms