

AD – 5-6
Ct No.16
29.07.2026
(SSS)

RVW 141 of 2026
with
CAN 4 of 2026

D & I Taxcon Services Pvt. Ltd.
Vs.
Radhika Singh

with

FA 311 of 2014

Radhika Singh
Vs.
D & I Taxcon Services Pvt. Ltd.

with

WPLRT 205 of 2013
with
CAN 1 of 2025
with
CAN 2 of 2025
with
CAN 3 of 2026
with
CAN 4 of 2026

D & I Taxcon Services Pvt. Ltd.
Vs.
State of West Bengal & Ors.

Mr. Tapas Datta,
Mr. Mritunjoy Halder
.....for the review applicant.

Mr. Abhrajit Mitra, Sr. Adv.,
Mr. Suddhasatva Banerjee,
Mr. Sarvapriya Mukherjee,
Mr. Sourojit Dasgupta,
Mr. Dipendra Nath Chunder

....for the Opposite Party in RVW No.
141 of 2026, appellant in FA 311 of 2014.

Re: RVW 141 of 2026

1. Let WPLRT 205 of 2013, being somewhat unrelated, be de-tagged from the file of RVW No. 141 of 2026.
2. RVW No. 141 of 2026 is taken up for adjudication first.
3. The present review application has been preferred against the judgment and decrees dated December 9, 2025 passed in FA No. 310 of 2014 and FA No. 311 of 2014.
4. By the said judgment, the decision of the learned Trial Court dismissing a suit for eviction of licensee filed by the Opposite Party herein was reversed, thereby granting eviction against the present review applicant on the ground that the review applicant is a licensee in respect of the said premises.
5. Learned counsel for the review applicant argues, by placing reliance on the relevant orders passed by the Trial Court in the suit from which the appeal arose, that the learned Trial Judge had, during pendency of the suit, repeatedly directed the plaintiffs/present opposite parties to issue notice of the date of peremptory hearing on the defendant/review applicant.

6. Despite the same, there was no compliance in that regard. However, the learned Trial Court, instead of dismissing the suit for non-compliance of the Court's direction, fixed the suit for hearing *ex parte* and thereafter, proceeded to decide the same.

7. It is contended that, as such, the review applicant, who was the defendant in the suit, did not have any opportunity to canvass its case on merits before the Trial Court.

8. Secondly, learned counsel argues that in different proceedings before the National Company Law Tribunal (NCLT) and the National Company Law Appellate Tribunal (NCLAT), it was recorded by the said Tribunals in their judgments that there was an admission on the part of the liquidator, who was in control of the suit property in the interregnum before the purchase by the opposite party in the review application, to the effect that the review applicant was a tenant in respect of the suit property. That apart, there were independent findings by the Tribunals as to such tenancy of the review applicant. In fact, the Tribunals also observed that "rent" was payable by the review applicant, thereby connoting the tenancy of the review applicant.

9. Since the said Tribunals were competent to adjudicate the issues before them and in connection with the same, such observations were rendered, it is argued that those are binding. Even otherwise, since the opposite party/decreed holder claims by dint of a purchase effected in the liquidation proceedings, it is also bound by the admissions of the liquidator, the latter having stepped into the shoes of the original owner at the relevant juncture.

10. Thirdly, it is argued that there are two suits pending at present at the behest of the review applicant, challenging the sale of the suit property in liquidation.

11. That apart, there is a subsisting demolition order in respect of the self-same property.

12. In the teeth of the pendency of the said matters, it is argued that the title of the opposite party/decreed holder itself is clouded. As such, this Court committed an error apparent on the face of the record in granting an eviction decree in favour of the opposite party.

13. Lastly, learned counsel argues that several orders were passed by the concerned Rent Controller at the behest of the review applicant, in respect of granting reliefs for effecting repairs and restoration of electricity supply in respect of the

suit premises. Thus, it is contended that the Rent Controller acknowledged the status of the present review applicant as tenant in respect of the suit property. Since the judgment under review goes against the grain of such specific findings of the jurisdictional Rent Controller, it is argued that the judgment under review is vitiated by error apparent on the face of the record on such count as well.

14. In support of the last-abovementioned contention, learned counsel cites *Om Prakash Gupta vs. Dr. Rattan Singh and Anr.* reported at 1962 SCC OnLine SC 111 where the Hon'ble Supreme Court observed *inter alia* that the Tribunals under the Rent Control Act being considered therein, being creatures of statute, have limited jurisdiction and have to function within the four-corners of the statute creating them. But within the provisions of the Act, it was held, they are Tribunals of exclusive jurisdiction and their orders are final and not liable to be questioned in collateral proceedings like a separate suit or application in execution proceedings.

15. The aforesaid contentions are controverted by learned senior counsel appearing for the opposite party.

16. Upon consideration of the arguments of the parties, we are unable to find merits in the contentions of the review applicant for the following reasons:

17. Insofar as the first ground of review is concerned, which is that despite the eviction suit having been fixed for *ex parte* hearing, in the teeth of non-compliance of the Trial Court's direction for issuing notice to the defendant regarding peremptory hearing the suit should have been dismissed, we are of the view that there was no statutory mandate of giving such notice of peremptory hearing to the defendant.

18. Thus, the purported non-compliance of the Trial Court's orders by the plaintiff in not giving any notice satisfactorily to the defendant in respect of the date of peremptory hearing did not vitiate the suit itself or go to the root of the matter.

19. As such, it cannot be urged, that too, at this belated stage of a review application, that such non-compliance on a minor aspect by the plaintiff disentitled the plaintiff to the judgment which was passed by this Court.

20. Since the defendant/review applicant chose not to appear in the suit at the hearing stage, there was no option left to the Trial Court but to

fix the suit for *ex parte* hearing. Non-service of any separate notice of the date of peremptory hearing on the defendant/review applicant did not change such normal course of law in any manner.

21. More importantly, despite such non-compliance being allegedly glossed over by the Trial Court by continuing with the suit, the suit was ultimately dismissed. Thus, the defendant/present review applicant did not have any right of appeal against the same. In the absence of any such right, the defendant could not have raised this objection before any superior forum. What could not be argued in the appeal itself cannot now be permitted to be argued by the review applicant at the review stage.

22. Regarding the second contention, we find on an elaborate scrutiny of the relevant observations of the Tribunals that the admissions purportedly referred to therein were made by the review applicant itself and were not attributable to the liquidator.

23. For example, the NCLT, in its order dated June 25, 2019, had observed in paragraph no. 50 of the said order that “the applicant is admittedly a tenant”. In the immediately preceding sentence, it was recorded that learned senior counsel for the liquidator had attempted to bring to the attention

of the Tribunal a letter addressed to the liquidator by the applicant therein. It was on the basis of such letter that the said observation was recorded by the Tribunal, evidently implying that it was the letter of the applicant (present review applicant) where it was “admitted” that the applicant was a tenant. Thus, the Tribunal clearly referred to the so-called admission of the review applicant itself and not the liquidator while so observing.

24. In the same judgment, the liquidator had also observed that the direction given thereinabove was not a bar in collecting “rent” for the “tenants” who had challenged the sale of the building.

25. The liquidator, in another portion of the judgment, also referred to the present review applicant as a “tenant” in respect of the office space.

26. Again, the NCLAT, in its judgment dated March 3, 2020 passed in Company Appeal (AT) (Insolvency) No. 1347 of 2019 had recorded in paragraph 3 that the appellant therein was “admittedly” a tenant occupying the tenanted portion.

27. In paragraph 7, a similar observation was recorded to the effect that “admittedly” the appellant (present review applicant) was occupying a portion of the Nicco House as a

tenant. The self-same observation was repeated thereafter by recording that the liquidation estate comprising of Nicco House “admittedly does not belong to the appellant and in its capacity as tenant, the appellant having no right, title or interest in Nicco House other than the right of occupation in accordance with the terms of lease agreement, did not fall within the ambit of operational creditor”.

28. In a subsequent portion of the judgment, coming under paragraph 8 thereof, it was observed that once it is found that the appellant is not an operational creditor as claimed by it on the strength of ‘leasehold rights’ in Nicco House, it cannot seek declaration to adjudge a sale transaction affected by the liquidator as void. It was further observed that ‘claim of compensation’ in its capacity as “tenant” is incompatible with the lately projected claim of being an operational creditor. The NCLAT went on to observe further that re-agitating the same matter time and again in different grounds and lately under “self-assumed status” of being an operational creditor was clearly at variance with the appellant’s “admitted status” as tenant.

29. On a comprehensive reading of the aforesaid observations, there cannot be any manner of

doubt that the “admissions” being referred to therein were clearly on the part of the review applicant itself and not by the liquidator or anyone else. Moreover, the said admissions were construed against the review applicant vis-a-vis its claim that it was an operational creditor. Thus, not only was the context of the said observations different from the present *lis*, but the admissions were attributed to none else than the review applicant itself and cannot bind the present opposite party/decreed holder and/or debar the opposite party from obtaining a decree of eviction of the review applicant as a licensee as owner of the property, having stepped into the shoes of the erstwhile owner by dint of purchase.

30. We further observe that in some of the places of their judgments, both the NCLT and NCLAT independently made cursory observations that the review applicant was apparently a tenant and was paying rent. However, the said observations were also made in the context of the claim made by the review applicant itself and not by way of independent adjudication of the issue as to whether the review applicant was a tenant or a licensee.

31. Moreover, the NCLT or the NCLAT does not have the jurisdiction in law to adjudicate tenancy

rights of an entity. It is exclusively within the domain of the Civil Court that a declaration in that regard lies.

32. Under certain circumstances, Courts have held that if observations as to the status of the defendant as a tenant are made even in an eviction proceeding, the same are binding in collateral proceedings and are to be treated as conclusively decided.

33. It was precisely such context in which the proposition laid down in *Om Prakash Gupta* was laid down.

34. The said case arose from an eviction proceeding which was initiated before the Additional Rent Controller and went up in appeal before the Rent Control Tribunal and thereafter to the High Court, from where the challenge before the Supreme Court was preferred. It is evident from a comprehensive reading of the said judgment that under the Rent Control Act being considered therein, it was the Rent Controller, and not the Civil Court, who had the exclusive jurisdiction in law to decide an eviction suit. Thus, the authority being exercised by the Rent Controller, while coming to the relevant findings in the said matter, was akin to and co-extensive with that of a Civil Court to grant a decree of

eviction either of a tenant or of a licensee. Hence, the ratio laid down therein has to be read in the facts of the case and not taken out of context. Under the aforesaid circumstances and the provisions of the said statute, the Hon'ble Supreme Court held that although Tribunals have limited jurisdiction and have to function within the four-corners of the statute creating them, within the provisions of the said Act, they are Tribunals of exclusive jurisdiction and their orders are final and not liable to be questioned in collateral proceedings like a separate suit or application in execution proceedings.

35. Thus, such observations were rendered in respect of a Tribunal which had statutory authority to decide eviction suits against tenants.

36. Hence, the said judgment does not come to the aid of the review applicant in the present context.

37. The Rent Controller orders relied on by the review applicants were passed under the provisions of Sections 27 and 36 of the West Bengal Premises Tenancy Act, 1997, which limits the jurisdiction of the Controller only to *prima facie* consider the entitlement of a tenant to get an order of repair/restoration of essential amenities. An order passed under the said provisions is by

no stretch of imagination a conclusive determination on the issue as to whether the applicant is a tenant or not.

38. Insofar as the pendency of other civil suits and/or demolition order in respect of the suit building are concerned, those cannot be a relevant consideration in respect of a decree of eviction passed against the licensee.

39. By the judgment under review, this Court took into consideration all the arguments made by the respective parties and thereafter, came to the conclusion that the review applicant was a licensee and accordingly proceeded to reverse the decision of the Trial Court and passed a decree of eviction of licensee.

40. Mere pendency of other civil suits and/or any demolition order does not have any germane bearing at all on the said adjudication and as such, cannot furnish grounds of the present review as well.

41. Moreover, the questions raised in the review application were available to the review applicant at the time of hearing of the appeals, but not so raised. Hence, a re-hearing of the first appeals in the garb of review is also not permissible in law.

42. In view of the above findings, we are of the opinion that the review application is devoid of substance.

43. Accordingly, RVW 141 of 2026 is dismissed on contest without any order as to costs, thereby upholding the judgment and decrees dated December 9, 2025 passed in FA 310 of 2014 and FA 311 of 2014.

44. CAN 4 of 2026 is consequentially disposed of as well.

45. No order as to costs.

(Sabyasachi Bhattacharyya, J.)

(Supratim Bhattacharya, J.)

In Re: WPLRT 205 of 2013

**with
CAN 1 of 2025,
CAN 2 of 2025,
CAN 3 of 2026,
CAN 4 of 2026**

46. CAN 3 of 2026 is an application for addition of the subsequent purchaser of the subject property to the writ petition.

47. Upon hearing learned counsel for the parties, CAN 3 of 2026 is allowed on consent, thereby

impleading the proposed added respondent as the respondent in the present proceeding.

48. The learned Advocate-on-record for the writ petitioner shall carry out the necessary consequential amendments to the cause title of the writ petition during the course of the day.

49. The present writ petition arises from an order passed by the Rent Controller under the West Bengal Premises Tenancy Act, 1997 (hereinafter referred to as “the 1997 Act”) granting reliefs to the petitioner, claiming to be a tenant, under Section 27 of the 1997 Act.

50. The learned Tribunal, sitting in a challenge against the said order of the Rent Controller, reversed the same on the finding that in view of the pendency of a civil suit for eviction of the petitioner on the ground that the petitioner is a licensee, the matter ought to be relegated to the Civil Court.

51. Learned counsel appearing for the petitioner seeks to rely on *Kartick Chandra Bhandari vs. Ashim Kumar Samanta* reported at *AIR 2008 Cal 279* where it was held by a learned Single Judge of this court that when there is a pending suit, the tenant has option under the 1997 Act to either initiate independent proceedings before the Controller for appropriate orders for repair and/or

for essential supplies or to make an interim application in the pending suit for grant of such relief.

52. It is contended that learned Tribunal relied on *Somnath Mukherjee vs. Mamata Rani Saha* reported at 2006 (3) CHN 213, where a contrary proposition was laid down, without taking into consideration the ratio of *Kartick Chandra Bhandari* (supra).

53. During arguments, it is pointed out by learned counsel for the petitioner as well as the respondent that by a previous order passed today itself, this court has dismissed a review application against a judgment passed in two first appeals, granting eviction decrees against the present writ petitioner on the ground that the writ petitioner is a licensee.

54. We take note of the said fact.

55. The entire gamut of the disputes involved in the present writ petition has been rendered infructuous in view of the aforesaid adjudication.

56. Since the First Appellate Court has already passed a decree of eviction against the petitioner on the premise that the petitioner is a licensee, as opposed to a tenant, and the application for review of such judgment has been dismissed, no scope remains for any relief to be granted to the

petitioner on the premise that the petitioner is a tenant within the contemplation of the 1997 Act.

57. Thus, the issues of law raised in the present writ petition are rendered academic and need not be adjudicated on merits at all.

58. In view of the above observations, WPLRT 205 of 2013 is dismissed as infructuous without any order as to costs.

59. CAN 1 of 2025, CAN 2 of 2025 and CAN 4 of 2026 are also disposed of consequentially.

60. There will be no order as to costs.

(Sabyasachi Bhattacharyya, J.)

(Supratim Bhattacharya, J.)