

30.7.2026
Item No. 5
Ct. No. 8
AGM/GB

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI**

CO/111/2026

Anna Sing @ Anan Singha
VS
Smt. Saswati Mallick

Mr. Arunava Paul.
Mr. Debanjan Das.
.....For the Petitioner

1. The present revisional application under Article 227 of the Constitution of India has been filed challenging inter alia, the order dated 25.6.2026 passed by the Sub-Divisional Magistrate, Siliguri in Misc petition case No. 22 of 2025 under Section 22 of the Maintenance & Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred to the said Act’).
2. The core issue involved herein is whether the Sub-Divisional Magistrate, Siliguri has jurisdiction under Section 22 of the said Act to direct eviction of a tenant in a landlord tenant dispute.
3. The petitioner is a tenant under the opposite party who is a senior citizen.
4. The opposite party filed an application dated 05.05.2025 before the Sub-Divisional

Magistrate, Siliguri alleging that the petitioner/tenant was causing mental disturbances and thus sought relief under Section 22 of the said Act. It is the specific case of the petitioner that the said eviction dated 05.05.2025 was never served upon him.

- 5.** By an ex parte order dated 18.06.2026 the Sub-Divisional Magistrate, Siliguri directed the petitioner to vacate the house in question on or before 31.07.2026. The said order was served upon the petitioner on 21.07.2026 through the concerned police station.
- 6.** Aggrieved by the said order the petitioner has approached this Court by way of present revisional application.
- 7.** Learned Counsel appearing for the petitioner made the following submissions that the foundational application dated 05.05.2025 was never served upon the petitioner and the impugned ex parte order has been passed without affording any opportunity of hearing to the petitioner thereby violating the principles of natural justice. It is further submitted that Section

22 of the said Act cannot be invoked in a landlord tenant dispute.

- 8.** It is further submitted that the remedy for eviction of tenant lies under West Bengal Premises Tenancy Act, 1997 before the competent civil Court. The Sub-Divisional Magistrate, Siliguri has acted wholly without jurisdiction and the impugned order is de hors the statute.
- 9.** In support of his submissions, the learned counsel places reliance upon two judgments in Smt. S. Vanitha –Versus- The Deputy Commissioner, Bengaluru Urban District & Ors reported in Civil Appeal No. 3822 of 2020 (arising out of SLP (C) 29760 of 2019) and Jitendra Gorakh Megh –Versus- Additional Collector & Appellate Tribunal, reported in Writ Petition (L) No. 31614 of 2025 wherein the Hon'ble Supreme Court held that the senior citizen act cannot be used as a tool for eviction of tenants and cannot override tenancy laws.
- 10.** Having heard the petitioner upon perusing the materials on record, this Court is of the view that the said Act is a beneficial piece of legislation enacted to provide more effective provisions for

maintenance and welfare of parents and senior citizens as guaranteed under the constitution.

- 11.** The entire scheme of the act deals with the obligation of the children and relatives to maintain senior citizens.
- 12.** It is well settled proposition of law that in the cases of eviction of tenants the appropriate legal remedy lies under the relevant tenancy laws and not by invoking the provisions of the Senior Citizens Act, 2007.
- 13.** The act is a welfare legislation enacted for providing maintenance and protection to parents and senior citizens from their children or legal heirs. It has no obligation to disputes between the landlord and tenant.
- 14.** Section 22 of the Act confers power and imposes duties on the District Magistrate to ensure protection of life and proper of senior citizens. The preamble and scheme of the Act clearly indicates that it applies to cases where there is a legal and moral obligation to maintain senior citizens. A tenant does not fall within that category.

- 15.** Admittedly the relationship between the petitioner and the opposite party is that of landlord and tenant. Therefore, the application filed under Section 22 of the Act seeking eviction of the petitioner is de hors the mandate of the statute.
- 16.** Section 22 of the Act does not confer any jurisdiction upon the Sub Divisional Magistrate, Siliguri to adjudicate title or to pass an order of eviction against a tenant. The appropriate forum for such redressal is a civil Court under the West Bengal Premises Tenancy Act, 1997.
- 17.** The direction issued by the learned Sub Divisional Magistrate directing the petitioner to vacate the premises by 31.7.2026 is in excess of jurisdiction and cannot be sustained in law.
- 18.** The contention regarding violation of natural justice also merits consideration, as the order appears to be passed ex parte without service of the notice.
- 19.** In view of the aforesaid discussions and findings the present revisional application is allowed.
- 20.** The impugned order dated 25.6.2026 passed by the Sub Divisional Magistrate,

Siliguri in Misc petition case No. 22 of 2025
is hereby quashed and set aside.

- 21.** The opposite party shall be at liberty to avail appropriate legal remedy for eviction of the petitioner before the competent civil Court in accordance with the provisions of the West Bengal Premises Tenancy Act, 1997.
- 22.** There shall be no order as to costs.
- 23.** Parties are to act on the server copy of this order.
- 24.** Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Smita Das De, J.)