

06.12.2021
SL No.21
Court No.8
(gc)

SAT 48 of 2020

Srimati Tara Sinha & Ors.

Vs.

Shrimati Ava Rani Paul

(Via Video Conference)

Mr. Debnath Nahata,
...for the Appellants.
Mr. Surya Prasad Chattopadhyay,
Mr. Arjun Samanta,
...for the Respondent.

The decree of affirmation by the Appellate Court in a suit for eviction of the appellants on the ground of encroachment over the suit property is the subject-matter of challenge in this second appeal.

Before the learned Trial Court, the decree-holder established his right, title and interest over the suit property on the basis of the deed of gift amongst others supported by the report of the Advocate Commissioner. The report of the Advocate Commissioner was not challenged before the Trial Court. On the basis of unimpeachable evidence, decree for eviction was passed. The Appellate Court extensively dealt with the evidence and after taking into consideration the deed of gift and the evidentiary value of the report of the Investigation Commissioner who happens to be an engineer, affirmed the decree passed by the Trial Court. The learned Appellate Court has taken note of Order 26 Rule 10(2) of the Code of Civil Procedure in arriving at a finding that

the decree-holder was able to establish his title over the suit property. The concurrent findings of fact in a second appeal should not be disturbed unless it appears to be grossly perverse.

We do find any substantial question of law involved in the second appeal. Accordingly, the second appeal being SAT 48 of 2020 is not admitted and stands dismissed.

However, there shall be no order as to costs.

Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Ajoy Kumar Mukherjee, J.)

(Soumen Sen, J.)