

24.08.2021

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ns Ct.04

S.A.T. 306 of 2017
With
I.A. CAN 1 of 2019 (Old CAN 7350 of 2019)

Sri Sanak Chatterjee.
Vs.
Smt. Bela Rani Dutta & ors.

Mr. Asit Baran Raut,
Mr. Asit Kr. Chowdhury,
Mr. Tuhin Subhra Raut for appellant.

Mr. Shyamal Chakraborty,
Mr. Jayanta Kr. Dhar,
Ms. Manju Jaiswal ... for respondents.

Mr. Raut, learned advocate appears on behalf of appellant, who was substituted defendant no.3 in the suit for eviction. He submits, the trial Court correctly appreciated the facts and dismissed the suit. The lower appellate Court was in error. Evidence, including admission of original appellant in cross-examination (PW 1), since deceased was not appreciated, the testimony being that said plaintiff had 13 rooms in his occupation. He causes handing up of deposition of PW 1 in cross-examination, Commissioner's report dated 16th June, 1984 and amended plaint. He submits further, the trial Court had elaborately dealt with the issues and correctly so. Substantial question of law arises on perfunctory manner, in which the lower appellate Court dealt with the appeal regarding appreciation of evidence.

The lower appellate Court is the last Court for appreciation on facts. The findings are, inter alia, two reports were filed on Commissions. No exception was taken by defendants to either.

We have cursorily looked at said deposition in cross-examination of PW 1, the report dated 16th June, 1984 and amended plaint, wherefrom it appears, inter alia, late father of defendant no.3/appellant herein was tenant paying rent of Rs.73/- per English calendar month. Evidence of deceased original plaintiff in cross-examination was, inter alia, he was in occupation of total 13 rooms on the ground and second floors of the building. Said witness also deposed, defendants had left the place but had kept the room under lock and key. The Commissioner reported, inter alia, the building is about 100 years standing. Several rooms of the 13 rooms in occupation of plaintiff are unuseable. Amended plaint reveals, original plaintiff and defendant have died. Of substituted defendants, only defendant no.3 is before us as appellant in second appeal.

We must appreciate finding of fact, by the lower appellate Court, of three rooms in possession of substituted plaintiffs as would appear from both Commissioners' reports considered, keeping in mind aforesaid in last two preceding paragraphs. This finding on facts is by the last Court competent to do so in deciding the factual issues of controversy between the parties. No question of law can arise from findings of fact by said

Court. In this context, we have perused grounds in the memorandum and we do not find any of them to suggest a substantial question of law arising from the findings of fact on reasonable requirement.

No question, therefore, arises for admission of the appeal.

S.A.T. 306 of 2017 with I.A no.CAN 1 of 2019 (old CAN 7350 of 2019) are dismissed.

(Arindam Sinha, J.)

(Saugata Bhattacharyya, J.)