

ORDER SHEET

GA 1 OF 2020
GA 797 OF 2020
CS 141 OF 2018
APD 2 OF 2020
IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
ORIGINAL SIDE

GOLDEN STEEL CO CORPORATION LTD.
Versus
JYOTSNA KUMARI MOGHA & ANR.

BEFORE:

The Hon'ble JUSTICE I. P. MUKERJI
The Hon'ble JUSTICE MD. NIZAMUDDIN
Date : 10TH March, 2021.

Appearance:
Mr. Naresh Balodia, Adv.
....For the Appellant

Mr. S. N. Mookerji, Sr. Adv.
Mr. Mainak Bose, Adv.
Mr. S. Ghose, Adv.
Mr. R. Karnani, Adv.
Mr. J. Guha, Adv.
Ms. T. Bhattacharyya, Adv.
...For the Respondent No.1

The Court : By a detailed judgement and order dated 16th January, 2020, a learned single judge of this Court dismissed the application of the appellant/applicant under Order XXI Rule 99 of the Code of Civil Procedure.

The appellant complained against possession of the suit premises delivered to the plaintiff / respondent No.1 in execution of a decree dated 15th January, 2019.

In the said application, the appellant claimed alleged tenancy under M/S. Riksar and Company, a partnership firm. The impugned judgment and decree records that the partnership firm was subsequently dissolved. Thereafter, the predecessor-in-interest of the defendant/respondent No.2 became the sole proprietor of the business.

In the suit, the respondent No.1/plaintiff claimed an eviction decree against the respondent No.2/defendant and obtained it.

The appellant was unable to show us any document by which M/s. Riksar & Company was said to have granted tenancy of the subject property or any part thereof to them. Neither were they able to show any rent receipt or any other document to establish their lawful entry into the said premises and/or subsequent possession thereof.

Learned counsel appearing for the appellant tried to rely upon challans issued by the office of the Rent Controller. In the absence of the above primary evidence, this Court is unable to accept any assertion by the appellant of any kind of right in the said premises.

The case of adverse possession was also sought to be run.

On a perusal of the pleadings in the Order XXI Rule 99 application or the judgement under appeal, we are unable to find any case of adverse possession having been run by the appellant. In any case, a right based on tenancy and one based on adverse possession cannot run together.

For those reasons, we find no merit in the appeal.

Accordingly, the appeal (APD No.2 of 2020) and the application (GA No.1 of 2020 and Old GA No.797 of 2020) are dismissed.

No order as to costs.

All interim orders are vacated.

(I. P. MUKERJI, J.)

(MD. NIZAMUDDIN, J.)