

**Amiya Chorone Roquitte
Vs.
Smt. Arati Damani & Ors.**

ar

Mr. Sabyasachi Chaudhury
Mr. Siddhartha Banerjee
Mr. Meghnad Dutta
... For the Appellant

Mr. Aniruddho Poddar
Mr. Dhiraj Kumar Gupta
... For the Respondents

The appeal has arisen out of a judgment and decree in a suit for recovery of khas possession by evicting the defendant/respondent. The suit was filed under the provision of West Bengal Premises Tenancy Act, 1956.

Learned counsel appearing for the appellant submits that in view of the amendment of Section 2G of the West Bengal Premises Tenancy Act, 1997, the status of the respondent is a trespasser. In any event, by reason of introduction of the West Bengal Premises Tenancy Act, 1997 a fresh cause of action has arisen in favour of the plaintiffs to seek eviction of the defendant.

If a fresh cause of action is arisen in favour of the plaintiff/appellant under the West Bengal Premises Tenancy Act, 1997, the dismissal of the appeal for non-prosecution shall not be a res judicata or debarred the appellant from filing a fresh suit under 1997 Act. However, any issue is raised with regard to the maintainability of the suit, the Trial Court shall decide the said issue independently.

In view of above, the appeal stands disposed of.

(Siddhartha Roy Chowdhury,J.)

(Soumen Sen, J.)