

22.08.2022
SL No.73
Court No.8
(gc)

SA 39 of 2020
CAN 1 of 2016 (Old No: CAN 11780 of 2016)

Dibyendu Sarkar
Vs.
Smt. Jayanti Dutta & Anr.

Mr. Asit Baran Raut,
Mr. Sk. Jahadar Alam,
...for the Appellant.
Mr. Saunak Bhattacharya,
...for the Respondents.

The relationship of the parties is governed by the provisions of the Transfer of Property Act. The tenancy was duly determined by a notice under Section 106 of the Transfer of Property Act. Moreover, there is a default in payment of rent in respect of the suit premises since August, 2008.

On such consideration, we do not find any merit in the second appeal.

The second appeal does not involve any substantial questions of law.

Accordingly, the second appeal being SA 39 of 2020 stands dismissed at the admission stage.

In view dismissal of the appeal, the application being CAN 1 of 2016 (Old No: CAN 11780 of 2016) also stands dismissed.

However, the learned Counsel for the appellant submits that the appellant is presently residing with his elderly mother who is not in good health and has prayed

for time to vacate the premises on or before 31st July, 2023 within which time, the appellant would find an alternative accommodation.

Considering the aforesaid prayer, we permit the appellant to continue in accommodation of the suit premises till 31st July, 2023 subject to payment of occupational charges at the rate of Rs.5,000/- per month and subject to payment of Rs.2.60 lakhs towards mesne profits within two weeks from date. The occupational charges shall be calculated from January, 2022 and the arrears towards occupational charges shall be paid within four weeks from date.

In addition to the aforesaid, the occupational charges from September, 2022 shall be paid by 7th of September, 2022 and 7th of each succeeding month till the suit premises is vacated. In default of complying with any of the conditions, the decree shall be immediately executable.

(Siddhartha Roy Chowdhury, J.)

(Soumen Sen, J.)