

Item-97.	03-11-2022	SA 235 of 2011 CAN 1 of 2004 (old CAN 7700 of 2004)
sg	Ct. 8	Subimal SEngupta Versus Anindya Shankar Roy & Anr.

The appellants are not represented even in the second call. The matter was initially listed on 28th September, 2022 when the appellants were also not represented. The appeal was registered in the year 2008.

The concurrent finding of fact arrived at by the Appellate Court in its judgment and order dated 30th March, 2004 is the subject matter of challenge in this second appeal.

The Trial Court decreed the suit on the ground of reasonable requirement. Before the Trial Court, the plaintiffs contended that they required the ground floor of the suit premises for their own use and occupation as the existing accommodation of the plaintiffs is insufficient in comparison with the composition of the family. Moreover, the wife of the plaintiff no.2 was a chronic arthritis patient and she cannot climb the spiral and narrow shape wooden staircase as there is no accommodation in the ground floor.

The defendant contested the suit and alleged that that the plea of reasonable requirement is false and simply an eye wash and as the plaintiff intended to construct a multi-storied building on the land with the help of a promoter.

Before the Trial Court, the plaintiff was able to prove its reasonable requirement. Apart from the evidence of PW-1, the evidence of DW-1 also taken into consideration, which would establish that the portion in occupation of the plaintiffs was

insufficient in comparison to the family members.

This finding of fact is based on cogent evidence. The First Appellate Court on appreciation of the said evidence affirmed the order passed by the learned Trial Court. The concurrent findings of facts are not duly required to be interfered with in this second appeal unless it is perverse.

On such consideration, we dismiss the second appeal at the admission stage.

(Uday Kumar, J.)

(Soumen Sen, J.)