

Item-20.	21-09-2022	SA 34 of 2011 CAN 1 of 2010 (old CAN 10711 of 2010)
sg	Ct. 8	Umrawati Singh & Ors. Versus Shyam Sundar Goenka & Ors.

The appellants are not represented nor any accommodation is prayed for on behalf of the appellants. The appellants were also not represented when the second appeal was listed last on 9th July, 2021. The second appeal is of 2006. The application for substitution was allowed on 5th August, 2021.

The second appeal is arising out of an appellate decree dated 2nd January, 2006 by which the decree passed by the trial court dated 30th June, 2004 in connection with the suit for declaration and permanent injunction, was affirmed.

The plaintiff filed a suit for declaration that he is the tenant in respect of B schedule property mentioned in the plaint. The defendant nos. 1 to 5 contested the suit by filing a written statement denying that the plaintiff is a tenant.

The trial court framed four issues. On the basis of the oral and documentary evidence, the trial court arrived at a finding that the plaintiff failed to prove that he is a tenant in respect of the B schedule property.

The case of the plaintiff was based at Exhibit A which is a counterpart of rent receipt for December 1992. It was exhibited on admission by PW-1, PW-3 and PW-4. PW-1 in his cross-examination stated that the tenancy to which exhibit A relates continued all along. However, he could not prove of extent of tenancy not covered by exhibit A.

The trial court dismissed the suit on the ground that there is no evidence on record to prove separate existence of B schedule property over which the plaintiff claims right as tenant.

The appellate court concurred with the findings of the trial court as the plaintiff was unable to establish proof of tenancy in respect of A schedule property.

In view of such clear finding of facts based on cogent evidence, we are not inclined to admit the second.

The second appeal stands dismissed at the admission stage.

The application being CAN 1 of 2010 (old CAN 10711 of 2010) also stands dismissed.

(Uday Kumar, J.)

(Soumen Sen, J.)