

24.03.2022

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Ct.No. 03

Amalranjan

(Via Video Conference)

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

FA 605 of 1974

**SRI RAMESHWAR LAL
MARWARI @ BIJAYAVARAJI & ORS
VS
RADHANATH DAS
SUBSTITUTED BY SMT.
BHAGABATI DAS & ORS.**

Mr. Rudra Prasad Matilal

... for the appellants

Mr. Mainak Bose

Mr. Rishabh Karnani

Ms. Sweta Gandhi

Ms. Ananya Sinha

...for the respondent no. 2

Mr. Krishna Das Poddar

Mr. Ayan Mitra

Mr. Amit Dutta

...for the respondents

The lease in question is of 17th November, 1931. Although, the lease was said to have expired by efflux of time, a notice of ejectment by way of abundant caution was issued on 10th December, 1951. The suit (title suit 82 of 1954) was instituted in the 6th Court of the Subordinate Judge at Alipore, about 75 years ago.

Nine issues were framed as hereunder:

1. “Did the defendants exercise their option for renewal as per terms of the lease in question?
2. Has the lease been determined as claimed?
3. What would be the prevailing rate of rent during the period of lease after the renewal in case the lease is found to have been renewed as alleged by the defendants?
4. Have the plaintiffs acquired their alleged title to the structures and other installations standing upon the suit land?
5. What is the present status of the defendants in relation of the suit property?
6. Are the plaintiffs entitled to get a decree for eviction as claimed by them?
7. Are the plaintiffs entitled to get a decree for arrears of rent, if so for what amount?
8. Are the defendants liable for damage, if so to suit amount?
9. To what other reliefs, if any, are the plaintiffs entitled?”

All issues were answered by the court in favour of the respondent/plaintiffs.

The judgment and decree dated 21st September, 1974 directed eviction of the appellant/defendants from the “suit land” and delivery of Khas possession to the respondent/plaintiffs. The respondent/plaintiffs were also awarded *mesne profit* from 16th November, 1961 till the date of recovery of Khas possession to be determined in a subsequent proceeding.

On 18th December, 1974 this appeal was filed in this court. For so many long years it is pending.

We have heard learned counsel for the parties. We have examined the impugned judgment and decree.

We find, it is a very well reasoned judgment. All the facts and evidence have been properly narrated and analysed by the learned judge. In our opinion, the correct conclusion had been reached by him.

Learned counsel for the appellants undertakes on behalf of his clients to vacate the suit premises within three months from date, i.e., 24th June, 2022.

We, accordingly, grant such time to the appellants.

Learned counsel for the respondents has given a counter undertaking to this court on behalf of his clients not to pursue any other claim against the appellants save and except the claim for obtaining vacant and peaceful possession of the suit premises, if the appellants honour their said undertaking.

In those circumstances, we dismiss the appeal and affirm the impugned judgment and decree.

The receiver stands discharged.

(Aniruddha Roy,J.)

(I. P. Mukerji,J.)