

Item-19. 22-09-2022

SA 356 of 2016
CAN 1 of 2016 (old CAN 10079 of 2016)

sg
Ct. 8

Ashok Roy
Versus
Maya Rani Dutta & Ors.

The appellant is not represented nor any accommodation is prayed for on behalf of the appellant. The appeal was presented on 20th March, 2014 but no attempt was made to move this appeal. The matter is appearing in the list since 9th September, 2022 and the appellant had sufficient notice that the matter may be taken up for admission. The appellant, however, is not represented.

The appellant also filed an application for substitution on 23rd September, 2016 for recording the death of the original respondent no.1 and to bring on record the legal heirs and representatives of the original respondent no.1 as respondents. In the application for substitution, it is stated that during the pendency of the second appeal on 6th August, 2016, the original defendant died intestate leaving behind the respondent nos. 2 to 4, who are already on record in the aforesaid second appeal.

In view of the fact that the original respondent no.1 died and his legal heirs and representatives being respondent nos. 2 to 4 are already on record, we dispose of this application for substitution by directing the department to delete the name of the respondent no.1 from the memorandum of appeal.

The aforesaid direction is informal.

CAN 1 of 2016 (old CAN 10079 of 2016) is, accordingly, disposed of.

The second appeal is arising out of a judgment and decree

dated 16th January, 2014 passed by the learned Judge, Eight Bench, City Civil Court at Calcutta affirming the decree 21st December, 2012 passed by the learned Judge, Second Bench, Small Causes Court at Calcutta in a suit for eviction instituted under Section 6 of the West Bengal Premises Tenancy Act, 1997.

The learned Trial Judge was satisfied with the evidence, both oral and documentary, adduced on behalf of the plaintiffs as to the reasonable requirement advanced by the plaintiffs as one of the ground for eviction. The learned Trial Judge, after taking into consideration the family composition by the plaintiff read with Exhibit nos. 4 to 4(f), which are the ration cards and Exhibit Nos. 5 to 5(f), which are Voter's Identity cards standing in the names of their family members, was of the view that the plaintiffs were able to establish their need for reasonable requirement and following the principle that the landlord is the best judge of the residential requirement and he has complete freedom in that matter. The suit was decreed. The learned Trial Judge did not find the said claim to be absurd or illusory.

The learned First Appellate Court relying on the aforesaid evidence and taking into consideration that the plaintiffs as landlord has freedom to decide whether to stay and in what manner to stay affirmed the decree passed by the Trial Court. The Trial Court as well as First Appellate Court have taken into consideration that report of the Local Inspection Commission (Exhibit-10) which would show that out of five rooms in possession of the plaintiffs in the first floor of the suit holding, one is used as bed room, one as dining-cum-kitchen room, as storage-cum-godown and one as thakur ghar and the remaining

one as bedroom-cum-kitchen-cum-dining for exclusive user of the plaintiff no. 4 while 2 rooms available in the ground floor of the suit holding are used by them as bed room and storage room. The learned Trial Judge as well as learned First Appellate Court following the observation and the principles laid down in 2002 CWN 405, 2000(1) RCR 135, (1996)5 SCC 353, (2001)8 SCC 431 & 63 CWN 29 as well as in the context of the requirement as pleaded by the plaintiff, held that the plaintiffs are entitled to decree for eviction on the ground of reasonable requirement.

On the appreciation of oral and documentary evidence and also particularly relying upon the exhibits, we have indicated above concurrent findings of facts having arrived at by both the courts, which in our view, does not suffer from any perversity. It also does not involve any substantial question of law.

The appeal, accordingly, stands dismissed at the admission stage. However, there shall be no order as to costs.

(Uday Kumar, J.)

(Soumen Sen, J.)