

07.09.2022
SL No.35
Court No.8
(gc)

SA 357 of 2016
CAN 1 of 2014 (Old No: CAN 3332 of 2014)

Sodhan Khan & Anr.
Vs.
Niharbala Mukherjee

The appellants are not represented nor any accommodation is prayed for on their behalf.

The second appeal has come up for admission.

The second appeal was presented on 5th April, 2014 and thereafter no attempt was made to move this appeal. This second appeal is arising out of a judgment and decree of affirmation dated 30th January, 2014 of the judgment and decree dated 31st January, 2013 passed in T.S. 63 of 2008 by the learned Civil Judge (Junior Division), 1st Court, Bolpur in a suit for eviction of a licensee. The plaintiff file a suit for eviction of the appellants before the Trial Court. The plaintiff was able to establish her title in the suit property. The devolution of interest in favour of the plaintiff was not under challenge. The plaintiff alleged that the defendant No.1 used to work as agricultural labourer and defendant No.2 used to work as maidservant in the house of the plaintiff. On 7th July, 2001, the husband of the plaintiff died on road accident as the plaintiff was issueless. The plaintiff permitted the defendant to stay at Chala hut in the souther side of the plaintiff's building. From the month of July, 2001 both the defendants started residing at such Chala hut with the permission of the plaintiff. Afterwards, for personal

reason, the plaintiff left the village and came Bolpur and during such time, the key of the building was handed over to the respondents for the purpose of looking after her properties. The position of the defendants was more or less of a care taker. At the time when the plaintiff decided to sell the property, the defendants raised objection and prevented the plaintiff to take any steps towards the sale of the property. On 15th April, 2008 when the plaintiff went to the village and directed the defendants to vacate the suit property within 30th April, 2008, they refused to accept such request. In view thereof, the plaintiff filed a suit for eviction of the present appellants. The respondents could not in the trial establish their title or right to possess the property based on any title. It is quite established at the trial that their possession was merely permissive and that of a licensee. The said view was affirmed by the Appellate Court.

There is no substantial question of law is involved in the second appeal.

Accordingly, the second appeal stands dismissed at the admission stage.

The application, accordingly, stands dismissed.

However, there shall be no order as to costs.

(Uday Kumar, J.)

(Soumen Sen, J.)