

DL. July 26,
21. 2022

S.A. 360 of 2016

Swapan Kumar Saha
Vs.
Smt. Ratna Mukherjee & ors.

None appears on behalf of the appellant, nor any accommodation is prayed on his behalf. The appellant also remained unrepresented on July 11, 2022. The present appeal was presented in the year 2014 without any effort or desire to move the appeal for admission. However, in view of the earlier order dated July 11, 2022, we propose to decide the question of admission of the second appeal.

The present appeal has arisen out of a judgment and decree of affirmance dated March 21, 2014 passed by the learned Additional District Judge, Second Court at Sealdah, South 24-Parganas, in Ejectment Appeal No. 11 of 2012 arising out of judgment and decree dated August 31, 2012 passed by the learned Civil Judge (Junior Division), Additional Court at Sealdah, in Ejectment Suit No. 628 of 2004.

The original plaintiff filed the present suit, inter alia, praying for recovery of possession and mesne profits. The contractual tenancy got determined on October 1, 2004. The allegation of the plaintiff was that the defendant/appellant kept the suit property under lock and key for more than a year and that tried to sublet the suit property. The plaintiff examined five witnesses and produced fourteen documents whereas the defendant/appellant produced five documents in support of his evidence. The trial court

framed thirteen issues. During the course of trial it appears that the defendant/appellant was not found in the suit property for a considerable period of time for which the ejectment notice was returned with the postal endorsement “not claimed”.

The plaintiff was able to establish that the suit property is otherwise required by the son and daughter of the plaintiff, both of whom are graduate, and at the relevant point of time they were jobless and they were in need of one room for running a joint coaching center.

The ground of reasonable requirement having been proved and in view of the fact that the defendant/appellant had kept the suit property under lock and key for more than a year, we do not find any reason to interfere with the concurrent findings of fact arrived at by both the court below. Moreover, we find no substantial question of law involved in this appeal for which the same is required to be admitted.

The second appeal is, therefore, summarily dismissed under Order XLI Rule 11 of the Code of Civil Procedure.

In view of dismissal of the appeal, nothing remains to be decided in the application for stay filed under CAN 5971 of 2014 and the same is also dismissed.

There will be no order as to costs.

(Soumen Sen, J.)

dns

(Siddhartha Roy Chowdhury, J.)

