

07.09.2022
SL No.36
Court No.8
(gc)

SA 370 of 2016

**CAN 1 of 2017 (Old No: CAN 7328 of 2017)
CAN 2 of 2017 (Old No: CAN 7331 of 2017)
CAN 3 of 2017 (Old No: CAN 7332 of 2017)
CAN 4 of 2017 (Old No: CAN 7333 of 2017)
CAN 5 of 2019 (Old No: CAN 1365 of 2019)**

**Dukari Mondal
Vs.
Lakshmi Devi Jaiswal**

The appellant is not represented nor any accommodation is prayed for on his behalf.

The second appeal has come up for admission.

The second appeal appears to have been filed on 18th of June, 2014. However, the record shows that no attempt was made since that time to move the present appeal. During the pendency of the second appeal, CAN 7328 of 2017 was filed on 1st August, 2017 claimed for delay of 542 days in taking out an application for substitution of the sole appellant who died intestate on 9th September, 2015 and in connection thereof an application for substitution was also filed being CAN 7332 of 2017. Another application being CAN 7331 of 2017 has been filed for setting aside the abatement of the appeal. Apart from the aforesaid, two other applications have been filed being CAN 7333 of 2017 and CAN 1365 of 2019 for appropriate orders. However, significantly no attempt was made by the proposed substituted applicants for substitution and to pursue their appeal. Apart from the concurrent findings of facts with regard to the reasonable requirement proved by the plaintiff

before the Trial Court and affirmed by the Appellate Court, we are of the view that the proposed substituted appellants are not entitled to the protection of the Rent Control Registration as presently they cannot be treated to be a tenant by reason of Section 2(g) of the West Bengal Premises Tenancy Act. Having regard to the fact that the original tenant died on 9th September, 2015 and the period of 5 years have passed in the meantime.

The second appeal, accordingly, stands dismissed as it does not involve any substantial questions of law.

By reason of the aforesaid, the connected applications are also dismissed.

However, there shall be no order as to costs.

(Uday Kumar, J.)

(Soumen Sen, J.)