

Ranjit Kumar Shee @ Ranjit Kumar Shee
-vs.-
Ashim Das

The second appeal appeared in the warning list on 22nd June, 2022 and continued to appear in the list until it was transferred to the daily cause list on 28th June, 2022.

This appeal is directed against the judgment and decree by the learned civil Judge, Senior Division, Durgapur in title appeal no. 4 of 2001, reversing the judgment and decree dated 31st January, 2001 passed by the learned Civil Judge, Junior Division, 1st Court, Durgapur by title suit no. 111 of 1998.

The brief fact of the case is required to indicated for proper appreciation of the lis. The plaintiff/appellant herein filed a suit for declaration stating inter alia that he is an employee of R.C. College and he joined service on 14th July, 1968. The defendant no. 7 joined on 2nd January, 1979 as designated Helper of the Hostel Mess Hall no. 11. Said defendant no. 7, according to plaintiff/appellant is junior to him. The College authority invited applications from the Hostel Employees and from the Employment Exchange for the post of Cook. Both the plaintiff/appellant and

respondent/defendant no. 7 submitted application but the plaintiff was not selected hence the suit. The defendant no. 7 contested the suit by filing written statement denying all material allegations. Having considered the evidence on record both oral and documentary learned Trial Court was pleased to pass the decree while learned First Appellate Court upon perusal of oral testimony of the plaintiff/appellant found that the plaintiff was driven simply by the apprehension that R.C. College authority might deprive him. Learned First Appellate Court was pleased to allow the appeal reversing the judgment passed by the learned Trial Court.

The suit for declaration under Section 34 of the Specific Relief Act may be filed by any person entitled to any legal character or to any right as to any property etc. against the person denying or interested to deny his title to such character or right. Here as we have already pointed out the plaintiff/appellant filed the suit for the declaration and injunction being driven by apprehension which has no basis and mere apprehension of a person cannot be held to be a denial of his title to any character or right as envisages under Section 34 of the Specific Relief Act. In our considered opinion, learned First Appellate Court was absolutely right

in passing the impugned judgment which does not call for any interference from our end as it is free from any perversity. There is no substantial question of law involved in this matter. Hence, we are not inclined to admit the second appeal.

Second appeal being 75 of 2021 stands dismissed.

There will be no order as to cost.

Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Soumen Sen, J.)

(Siddhartha Roy Chowdhury, J.)

