

31.10.2022
SL No.11
Court No.8
(gc)

SA 90 of 2021
CAN 1 of 2005 (Old No: CAN 5142 of 2005)

Gopal Show & Ors.
Vs.
Ram Chandra Gupta & Anr.

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

The appeal was registered in the year 2005. The concurrent finding of fact in a suit for eviction is the subject matter of the second appeal. The First Appellate Court in Title Appeal No.39 of 2002 dated 20.12.2004 affirmed the decree dated 20.12.2001 passed by the learned Civil Judge, Junior Division. The learned Trial Judge decreed the suit on the ground of reasonable requirement and default. The plaintiff was found to be residing in a rented premises and was able to establish the requirement of the suit premises for occupation of the plaintiff and its family members. Both the Courts have rightly observed that the owner of the house cannot be asked to raise a new construction for his own use and occupation when a premises owned by him is used and enjoyed by the tenant. These pure findings of facts are not required to be interfered with at the admission stage in the second appeal.

Accordingly, the second appeal being SA 90 of 2021 stands dismissed.

In view of dismissal of the second appeal, the application being CAN 1 of 2005 (Old No: CAN 5142 of 2005) also stands dismissed.

However, there shall be no order as to costs.

(Uday Kumar, J.)

(Soumen Sen, J.)