

28 15.12.2022

Ct-08

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SAT 79 of 2008
with
I.A No. CAN 1 of 2011 (Old CAN No. 1821 of 2011)

Sri Radha Madhab Roy
Vs.
Master Sourav Pal & Ors.

The appeal is of the year 2008. However, no attempt has been made to move this appeal.

The appeal appeared in the warning list on 29th November, 2022 with a clear indication that the same shall be transferred to the regular list on 5th December, 2022, since then the matter is appearing in the list.

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

The stamp reporter in his report dated 03.4.2008 has notified some defects. Such defects have not yet been removed by the appellant.

On the earlier occasion on 15th May, 2017 leave was granted to the learned advocate on record of the appellant to rectify such defects and directed to appear in the list two weeks after summer vacation, subject to removal of such defects.

Although, we could have dismissed the appeal for not removing such defects, however, we propose to find out if any substantial question of law(s) is involved in this second appeal.

The suit for eviction of a tenant was decreed on contest. The trial court arrived at a finding that the defendant has damaged the suit property and there has been a default. The trial court has discussed in this regard and decreed

the suit on contest.

The first appellate court on correct appreciation of facts and law in relation to Section 17(1) and 17(2) of the West Bengal Premises Tenancy Act, 1956 agreed with the findings of the trial court. The suit was decreed since the monetary provision of Section 17(1) and 17(2) of the West Bengal Premises Tenancy Act, 1956 was not followed. The concurrent findings of facts are based on cogent evidence and proper appreciation of law is not disturbed in the second appeal unless such findings are perverse.

On such consideration, we do not find any substantial question of law involved in this second appeal. The appeal accordingly fails.

The second appeal is, therefore, summarily dismissed under Order XLI Rule 11 of the Code of Civil Procedure at the admission stage along with CAN 1821 of 2011.

There will be no order as to costs.

(Uday Kumar,J.)

(Soumen Sen, J.)

