

DL. March 22,
28. 2022

F.A.T. 124 of 2020

Abdul & ors.

Vs,

Sk. Khamiruddin & ors.

Mr. Suprabhat Bhattacharyya,

Mr. Md. Nauroz Rahber,

Ms. Anjana Mehebab,

Mr. Jawwad Alam,

...for the appellants.

Mr. Md. Habibur Rahaman,

...for the respondents no. 1 to 9, 11 & 13.

Re: CAN 2519 of 2020 (stay)

filed on March 4, 2020.

Although the matter is appearing under the heading “application”, by consent of the parties the appeal itself is taken up for consideration upon dispensation of all formalities.

The appellants are aggrieved by the declaration of shares in respect of ‘A’ scheduled property.

The learned advocate appearing on behalf of the appellants submits that the erroneous finding is due to the non-consideration of Exhibits “A” and “B”, namely, the original sale deed no. 131/1941 and the original sale deed no. 1342/1919.

On a bare perusal of the impugned judgment, we do not find any reflection of the said two sale deeds. The appellants are not aggrieved by the other findings arrived at by the learned trial judge in respect of “B” scheduled property.

In view of the aforesaid, the matter is remanded to the learned trial judge to write a fresh judgment in respect of declaration of shares in so far as “A” scheduled property is

concerned on consideration of Exhibits “A” and “B” on the basis of available documents and the evidence already on record. No further evidence to be adduced by the parties on the said issue. However, the parties are at liberty to advance arguments in respect of Exhibits “A” and “B” only.

We make it clear that the findings arrived at by the learned trial judge in respect of “B” scheduled property remains untouched and we are not interfering with such findings.

The parties shall maintain status quo with regard to nature and character of the “A” scheduled property till re-writing of the judgment in respect of “A” scheduled property.

The appeal and the application are, thus, disposed of without any order as to costs.

dns

(Ajoy Kumar Mukherjee, J.)

(Soumen Sen, J.)