

Item-100.	01-09-2022	SA 67 of 2022 CAN 1 of 2015 (old CAN 3966 of 2015)
sg	Ct. 8	Dulal Chakraborty Versus Arun Chandra Das

Mr. Anit Kumar Rakshit, Adv.
...for the appellant

Mr. Anit Kumar Rakshit, learned Counsel appearing on behalf of the appellant submits that he has received instruction from the daughter of the appellant that the appellant had died during the pendency of the appeal. However, no application for substitution has been filed as yet.

The appeal is arising out of a judgment and decree dated 29th January, 2015 passed by the learned Additional District Judge, 2nd Court, Serampore in Title Appeal No. 116 of 2010 affirming the decree and order passed by the learned Civil Judge (Junior Division), Additional Court, Serampore in Title Suit No. 89 of 2009.

In order to find out whether the appeal involves any substantial question of law, we have gone through both the orders. It appears that the plaintiff filed a suit for eviction of the defendant/respondent on the ground of default, reasonable requirement and causing damage to the suit property. Evidence on record would show that all the points were decided against the appellant. The concurrent finding of facts arrived at by both the courts on the basis of the materials available on record does not show that the findings are perverse or based on no material at all.

In a second appeal, the appeal court cannot interfere with the

concurrent finding of facts or the issues that have been decided by both the Courts on appreciation of oral and documentary evidence. There is no question of law involved in the appeal and all are findings based on facts.

Under such circumstances, we do not find any reason to interfere with the order passed by the First Appellate Court by affirming the order of the trial court.

Accordingly, the appeal fails. SA 67 of 2022 is dismissed. There shall be no order as to costs.

In view of dismissal of the appeal, the application being CAN 1 of 2015 (old CAN 3966 of 2015) shall also stand dismissed.

(Uday Kumar, J.)

(Soumen Sen, J.)