

Item-15. 06-12-2022

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Ct. 8

SAT 156 of 2016

Menoka Chakraborty
Versus
Debasish Mondal

The appeal is of the year 2016. The Additional Stamp Reporter has reported in its report dated 28th April, 2016 that the appeal is defective. The matter appeared before the Lawazima Court on 22nd February, 2019. None had appeared on behalf of the appellant. Thereafter, the matter appeared in the warning list on 16th November, 2022 and continued to remain in the said warning list till it was transferred to regular list on 21st November, 2022. In spite of notice, the appellant is not represented nor any accommodation is prayed for on behalf of the appellant.

The appellate decree dated 22nd December, 2015 affirming the decree of the Trial Court dated 31st March, 2015 is the subject matter of challenge in the second appeal.

The appellant is the defendant in a suit for recovery of possession and mandatory injunction. The First Appellate Court decreed the suit on the ground that the respondent has trespassed to the property of the plaintiff. The finding was based on the report of the Commissioner dated 18th September, 2013 (filed on 27th September, 2013. The report of the Commissioner was accepted on 2nd December, 2013. It appears from the said report that the defendant/appellant had encroached over 68 square feet of land within the suit plot by constructing bathroom, privy tank etc. The encroachment is also otherwise proved by exhibit 5 series and the certified copy of LRROR being exhibit 3. The First Appellate

Court has affirmed the said decree. Both the orders are based on concurrent findings of fact based on cogent evidence.

On such consideration, we do not find any reason to interfere with the order passed by both the courts. The second appeal stands dismissed at the admission stage.

(Uday Kumar, J.)

(Soumen Sen, J.)