

DL. September
30. 8, 2022

S.A. 81 of 2021
Sri Jawaharlal Das
Vs.
Smt. Shanti Devi

None appears on behalf of the appellant nor any accommodation is prayed on his behalf. The present appeal was presented on May 19, 2005 without any effort or desire to move the appeal for admission. The matter was appearing in the list since July 25, 2022. The appellant has sufficient notice and knowledge of listing of this matter. However, we propose to decide the question of admission of the second appeal on the basis of the materials available on record.

The present appeal has arisen out of a judgment and decree of affirmance dated February 25, 2005 passed by the learned Civil Judge (Senior Division), Third Court at Alipore, South 24-Parganas, in Title Appeal No. 222 of 2002 arising out of judgment and decree dated May 8, 2002 passed by the learned Civil Judge (Junior Division), First Additional Court at Alipore, South 24-Parganas, in Title Suit No. 25 of 1988, which is a suit for eviction and recovery of khas possession.

The plaintiff filed the present suit for recovery of possession on the ground of reasonable requirement for her own use and also for the use of her family members. The defendant/appellant contested the suit by filing written statement wherein he denied the material allegations. Before the trial court, the plaintiff/respondent was able to establish her case of reasonable requirement. On the question of reasonable requirement, it was found that there are eight

rooms in the suit premises out of which five rooms are under the occupation of the plaintiff/respondent. An advocate commissioner was appointed for the purpose of ascertaining the nature of the rooms available in the suit premises. It transpires that grand children of the plaintiff would require separate rooms for their studies. The evidence of plaintiff's witnesses no. 1 and 2 would establish the requirement of additional rooms for comfortable living of the plaintiff. Both the courts below have arrived at a finding that the plaintiff and her family members are in bona fide need of tenanted portion of the suit premises. The married daughter of the plaintiff is also residing with her family at the plaintiff's place. Taking into consideration the total number of family members of the plaintiff and their needs, it cannot be said that the claim of the plaintiff is fanciful.

The concurrent findings of fact on the question of reasonable requirement arrived at by both the courts below on the basis of the evidence adduced by the parties cannot be said to be perverse and does not call for any interference in the second appeal. Moreover, we do not find any substantial question of law involved in this appeal for which the same is required to be admitted.

The second appeal is, therefore, summarily dismissed under Order XLI Rule 11 of the Code of Civil Procedure.

There will be no order as to costs.

(Soumen Sen, J.)

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(Uday Kumar, J.)

