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|----------|------------|------------------|
| Item-17. |            | SAT 194 of 2016  |
|          | 06-12-2022 | Md. Amirul Islam |
|          |            | Versus           |
| sg       |            | Md. Nizamuddin   |
|          | Ct. 8      |                  |

The appeal is of the year 2016. No attempt has been made to remove the defects. It appears that the Additional Stamp Reporter in its report dated 19<sup>th</sup> May, 2016 has referred to various defects, which, inter alia, including payment of deficit court fees. The matter appeared in the warning list on 16<sup>th</sup> November, 2022 and continued to remain in the said warning list till it was transferred to regular list on 21<sup>st</sup> 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 22<sup>nd</sup> April, 2016 affirming the decree for eviction and recovery of possession of the Trial Court dated 22<sup>nd</sup> December, 2014 is the subject matter of challenge in the second appeal.

We have carefully considered both the orders and we are of the view that, on the basis of the oral and documentary evidence, the trial court was justified in decreeing the suit. The suit was decreed on the ground of default. The defence for delivery of possession by the defendant was struck off because of the non-compliance of the order directing the payment of arrears, rents as well as current rents. The service of notice was also adequately proved and established at the trial.

Both the courts on correct interpretation of section 7 of the West Bengal Premises Tenancy Act, 1997 have decreed the suit.

The suit was also decreed on the ground of reasonable requirement adequately established by the plaintiff before the trial court and was able to sustain such finding in the trial court. The plaintiff was able to prove that the plaintiff and the family require the said room for their living and enjoyment of the suit property.

We could have dismissed the appeal for not depositing the deficit court fees since May, 2016, however, we thought it fit and property to ascertain if the second appeal involves any substantial question of law. We are of the view that this appeal has been deliverable kept pending to delay execution proceeding.

On such consideration, we do find any reason to interfere with the orders passed by both the courts. The appeal stands dismissed at the admission stage. However, there shall be no order as to costs.

This order shall be immediately communicated to the learned Civil Judge (Junior Division), 1<sup>st</sup> Court, Malda in O.C. No. 119 of 2012 for information and doing the needful.

**(Uday Kumar, J.)**

**(Soumen Sen, J.)**