

DL. September
23. 22, 2022

S.A. 36 of 2021

Sri Gouri Sankar Mondal & anr.

Vs.

Sri Pradip Kumar Achar & ors.

The present appeal is of the year 2007, but no attempt was made to move the same for admission. The appeal was kept pending for almost fifteen years before we directed this matter to be listed on September 9, 2022. Since then the matter is appearing in the list. In spite of sufficient notice, the appellants are not represented, nor any accommodation is prayed for. However, we propose to consider the question of admission of the present second appeal on the basis of the materials available on record.

The judgment and decree of affirmance dated January 19, 2007 passed by the learned Additional District Judge, Fast Track Court at Haldia, Purba Medinipur, in Title Appeal No. 94 of 2004 arising out of judgment and decree dated December 19, 2000 passed by the learned Civil Judge (Senior Division), Third Court at Midnapore, in Title Suit No. 34 of 1988, which is a suit for specific performance of contract for sale, is the subject matter of challenge in this appeal.

Both the courts below found that at the time of execution of the agreement for sale, the respondent no. 1 was minor. Moreover, the evidence would show that the properties were sold at a time when the defendant no. 1 was minor and that this was all done pursuant to the permission obtained from the court by the

mother of the defendant no. 1/respondent no. 1.

On such consideration, we do not find any reason to interfere with the concurrent findings of fact arrived at by both the courts below. 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.

In view of dismissal of the appeal, nothing remains to be decided in the connected application for stay filed under CAN 5827 of 2007 and the same is also dismissed.

There will be no order as to costs.

(Soumen Sen, J.)

dns

(Uday Kumar, J.)