

Item-6 25-02-2022

FAT 266 of 2017
CAN 111 of 2018

sg Ct. 8

Shikha Singh, since deceased, represented by
Bijay Kumar Singh & Ors.

Versus

Arati Dutta, since deceased, represented by
Partha Dutta & Ors.

(Through Video Conference)

Mr. Sounak Bhattacharya, Adv.

Mr. Sounak Mandal, Adv.

...for the appellants

In spite of notice, the respondents are not represented. However, instead of taking up the application, we decide to take up the appeal.

The plaintiff/respondent has filed a suit for eviction upon expiry of lease. It is not in dispute that the tenancy is determinable on service of notice under Section 106 of the Transfer of Property Act.

The learned Counsel for the appellants submits that the notice was not duly served upon the tenants/appellants as the provisions of Section 106 of the Transfer of Property Act were not complied with.

We may not have to go into the question having regard to the fact that when the suit was filed, the tenancy has expired by efflux of time. It is not in dispute that the period of tenancy under the agreement had expired when the suit was filed and there was no necessity as such, to serve any notice before termination of the tenancy. From the evidence on record it was also very clear that the relationship between the parties was determined by efflux of time since May, 2013 and since then the

defendant has been possessing the suit premises without any lawful authority.

In view thereof, we do not find any reason to interfere with the order passed by the learned Civil Judge (Senior Division), 2nd Court at Barasat, North 24 Parganas.

The appeal and the application stand dismissed however, there shall be no order as to costs.

(Ajoy Kumar Mukherjee, J.)

(Soumen Sen, J.)