

Milu Rani Dutta
Vs,
Jyotsna Das

The matter appeared in the warning list on November 29, 2022 with a clear indication that the matter would be transferred to the daily cause list on December 5, 2022 before the regular bench. Since then the matter is appearing in the list. The present appeal is of the year 2007.

Today the appellant is not represented, nor any accommodation is prayed for.

It appears from the record that on December 5, 2007 none had appeared on behalf of the appellant and a co-ordinate bench of this court, upon noticing that certified copies of the judgment and decree of the trial court were not filed, directed the matter to go out of the list. The office reports that the defects pointed out by the additional stamp reporter in his report dated September 21, 2007 have not yet been removed. Notwithstanding the defects, 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 March 19, 2007 passed by the learned Additional District Judge, Fast Track Court at Hooghly, in Title Appeal No. 2 of 2004 arising out of judgment and decree dated November 24, 2003 passed by the learned Civil Judge (Junior Division), First Court at Chandannagore, Hooghly, in Title Suit No. 127 of 1997, which is a

suit for eviction of a licensee, is the subject matter of challenge in this appeal.

We have carefully considered the judgments of the trial court as well as the first appellate court. The plaintiff/respondent was able to establish her ownership and title over the suit premises and that the possession of the defendant/appellant in respect of the suit premises is that of a licensee. It appears that Jalada Sundari was a monthly tenant under Sukumar Chandra Das and that after the death of Sukumar, her mother was residing in the suit premises in the capacity of a tenant but as Sukumar had no legal heir, she remained in the suit premises without paying any rent. The factum of licence was established by way of exhibit 6, whereas the defendant/appellant had failed to establish that her mother was a premises tenant in respect of the suit premises and that the appellant after demise of her mother inherited such tenancy.

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

Having found no substantial question of law involved in this appeal for which the same is required to be admitted, the same is summarily dismissed under Order XLI Rule 11 of the Code of Civil Procedure.

In view of dismissal of the appeal, the connected application filed under CAN 7481 of 2007 also stands dismissed.

There will be no order as to costs.

(Uday Kumar, J.)

(Soumen Sen, J.)

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