

20.12.2022
SL No.42
Court No.8
(gc)

SAT 243 of 2009

**Anil Saha
Vs.
Brinda Rani Saha & Ors.**

This matter appeared in the Warning List of 29th November, 2022 with a clear indication that this matter shall be transferred to the Regular Bench on 5th December, 2022. Since then the matter is appearing in the list. The appeal is of the year 2009. The appellant has due notice of the matter. The appellant is not represented.

The appeal is defective as notified by the Additional Stamp Reporter in its report dated 02/07/2009 and thereafter no attempt was made to remove the defects. We could have dismissed the appeal for non-removal of the defects. However, we have perused the order of the First Appellate Court. The suit was decreed on the ground of default. The case was duly proved before the Trial Court as well as before the First Appellate Court. The appellant had failed to establish that he had taken recourse to Section 25(2) of the West Bengal Premises Tenancy Act. The suit, in fact, was heard ex parte but the judgment was based on cogent evidence.

On such consideration, the second appeal is dismissed both for non-removal of defects and on merits as well at the admission stage.

However, there shall be no order as to costs.

(Uday Kumar, J.)

(Soumen Sen, J.)