

06.12.2022
SL No.24
Court No.8
(gc)

SAT 248 of 2016

**Sunil Mallick & Anr.
Vs.
Biman Das**

This matter appeared in the warning list on 16th November, 2022 with a clear indication that the appeal shall be transferred to the daily list on 21st November, 2022.

The appellants are not represented nor any accommodation is prayed for on behalf of the appellants, although, the appellants have sufficient knowledge and notice of the listing of this matter. This appeal was filed in the year 2016 but since then no attempt has been made to move this appeal. The Additional Stamp Reporter has in his report dated 20.06.2016 indicated few defects. No attempt has been made to remove the defects.

The appellate decree dated 20.02.2016 affirming the judgment and decree dated 28.06.2013 passed by the learned Civil Judge (Junior Division) 1st Court, Hooghly is the subject matter of challenge in this second appeal. The plaintiff filed a suit for eviction, inter alia, on the ground of default and reasonable requirement. Before the Trial Court, the plaintiff was able to establish that the requirement of the suit property for the use of the plaintiff and his family members. The defendant in his cross-examination has admitted that the condition of the tenanted room is bad and it might collapse at any moment. Insofar as the reasonable requirement is concerned, the Trial Court recorded that the claim for reasonable requirement was bona fide, just and not

illusory. The plaintiff was allotted three rooms in the suit holding on the basis of the final decree of partition. The defendant was inducted as a tenant by the parents of the plaintiff in respect of one room and verandah. The plaintiff admitted that during his cross-examination that two rooms are occupied by the plaintiff and his two unmarried sisters and another room was occupied by the defendant. During the cross-examination of the defendant No.2, the said witness admitted that there is no other alternative accommodation. D.W.1 also deposed during his cross-examination admitted that there is no other rooms except the tenanted room in the suit holding and other two rooms situated contiguous to the tenanted room are in dilapidated condition which are inhabitable.

On the basis of such evidence, the suit was decreed on the ground of reasonable requirement. The First Appellate Court has affirmed the said decree on consideration of the oral and documentary evidence.

The concurrent finding of facts based on cogent evidence is not called for any interference at the admission stage.

Accordingly, the second appeal stands dismissed at the admission stage.

However, there shall be no order as to costs.

(Uday Kumar, J.)

(Soumen Sen, J.)