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Ct-08

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SAT 268 of 2016
with
I.A No. CAN 1 of 2019(Old CAN No. 2923 of 2019)

Ajam Ali & Anr.
Vs.
Sekhar Nag

The appeal is of the year 2016. However, no attempt has been made to move this appeal. The appeal appeared in the warning list on 16th November, 2022 with a clear indication that the same shall be transferred to the regular list on 21st November, 2022 and since then the matter is appearing in the list.

The appellants are not represented nor any accommodation is prayed for on behalf of the appellants.

The stamp reporter reported various defects in his report dated 04.07.2016. Till date no such attempt has been made to remove such defects.

The second appeal is arising out of a judgment and decree dated 16th April, 2016 passed by learned District Judge, Midnapore (West), in Other Appeal No. 74 of 2016 affirming the judgment and decree dated 11th April, 2014 passed by learned Civil Judge (Junior Division), 2nd Court, at Midnapore(West), in Other Suit No. 4 of 2013.

The appellate court dismissed the appeal on the ground of limitation. The appeal was filed with regard to the eviction decree dated 11th April, 2014. The trial court decreed the suit on the ground of default and for rebuilding and reconstruction. It was proved that the defendants had damaged the wall of the suit premises.

The default was adequately proved by the trial court. The appellate court in considering the application under Section 5 of the Limitation Act has also taken into consideration the conduct of the appellants in relation to compliance under Section 17(1) and 17(2) of the West Bengal Premises Tenancy Act.

Admittedly, there was a delay of 95 days in presenting the appeal. However, the appellants, as it appears from the judgment of the first appellate court, could not furnish sufficient cause for not being able to prefer the appeal within the period of limitation.

We could not find any reason to interfere with the order passed by the first appellate court.

On such consideration, the appeal accordingly fails.

The second appeal is, therefore, summarily dismissed under Order XLI Rule 11 of the Code of Civil Procedure at the admission stage along with CAN 2923 of 2019.

There will be no order as to costs.

(Uday Kumar,J.)

(Soumen Sen, J.)

