

34 22.12.2022

Ct-08

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SAT 290 of 2011
with
I.A No. CAN 1 of 2011(Old CAN No. 8015 of 2011)
Ramjiwan Jaiswal (Shaw)
Vs.
Soumendra Nath Bhanja

The appeal is of the year 2011.

The appeal appeared in the warning list on 29th November, 2022 with a clear indication that the same shall be transferred to the regular list on 5th December, 2022, since then the matter is appearing in the list.

It appears from the record that a coordinate bench on 11.11.2011 upon noticing the defects, as notified by the stamp reported on 23.8.2011, directed listing of the appeal after two weeks with liberty to the appellant to remove the defects.

The appellate decree dated 30th June, 2011 affirming the judgment and decree passed by the trial court on 26th April, 2005 and 6th May, 2005 in a suit for eviction is the subject matter of challenge in this second appeal.

We have carefully perused the judgment of the first appellate court as well as the trial court and the grounds of appeal. It appears that the certified copy of the trial court has not been filed at the time of filing of the appeal and such defect has remained as reported by the department on 21.12.2022.

The first appellate court affirmed the judgment of the trial court on the ground of valid tender of rent. The suit was decreed on default of making payment of rent since February, 1978. The appellate court has arrived extensively to the evidence on record and has come to a definite finding that the deposit of rent in the rent

controller is without complying with Section 21 of the West Bengal Premises Tenancy Act, 1956 and in view of the fact that such deposits are valid in law has rightly confirmed the judgment and decree passed by the trial court.

Under such circumstances, 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 8015 of 2011.

There will be no order as to costs.

(Uday Kumar,J.)

(Soumen Sen, J.)

