

5.1.2022
SL No.31
Court No.8
(gc)

SAT 270 of 2017

**Hombi Kundu @ Ashim Kundu & Anr.
Vs.
Rabindra Nath Das & Ors.**

(Via Video Conference)

Mr. Kaushik Dey,
....for Appellants.

The appeal is barred by 1495 days as on 24th July, 2017.

On 9th December, 2019, Mr. Dey appeared on behalf of the appellants and on the basis of the assurance given by the learned Counsel for the appellants that an application will be filed shortly, the matter was directed to go out of the list with a liberty to take appropriate steps. But on 24th November, 2021 this matter appeared, we found that in spite of the earlier order, no attempt was made on behalf of the appellants to remove the defects. However, as a last change, we adjourned this matter till 8th December, 2021 to enable the appellants to file appropriate application. We made it clear that in the event the defects are not removed by the adjourned date, the matter may be dismissed. No appropriate application has been filed prior to 24th November, 2021 and/or thereafter for extending the time to file the application. Moreover, we find that the suit was decreed on reasonable requirement. We are certain that by reason of pendency of

this appeal, the decree-holder is getting deprived of the fruits of the ejectment decree. It is a judgment of affirmation.

We are of the view that the appellants have no intention to proceed with the appeal and there has been culpable negligence on the part of the appellants in not taking steps.

On such consideration, the oral prayer of Mr. Dey to give another opportunity is declined.

The second appeal, being SAT 270 of 2017 stands dismissed.

However, there shall be no order as to costs.

A copy of this order shall be communicated to the learned Judge, 5th Bench, Presidency Small Causes Court for information by the learned Registrar Administration (L&OM) in course of this week.

This order shall also be communicated to the plaintiffs/respondents by the department within a fortnight from date.

All parties shall act on the server copies of this order duly downloaded from the official website of this Court.

(Ajoy Kumar Mukherjee, J.)

(Soumen Sen, J.)