

13.12.2022
SL No.31
Court No.8
(gc)

SAT 3114 of 1997

**Hosen Molla & Ors.
Vs.
Ismail Molla**

Mr. Jahar Lal Roy,
...for the Appellants.

The appellate judgment and decree dated 10th July, 1995 affirming the judgment and decree dated 11th February, 1994 in a suit for declaration and injunction is a subject matter of the second appeal.

We have heard Mr. Jahar Lal Roy, learned Advocate representing the appellant. Mr. Roy has submitted that the land has vested and that there is a resumption of possession in favour of the plaintiffs, the Trial Court as well as the First Appellate Court could not have passed a decree. It appears from record that the plaintiffs acquired title in the suit property by purchase from Md. Jalaluddin Gharami and have been possessing the suit property since purchase. The plaintiffs have produced the certified copy of the judgment and decree (being exhibits-1 and 1(a)) passed in T.S. No.618 of 1968. The said two exhibits show that the vendor of the plaintiffs had brought a suit being T.S. No.618/68 in the Court of the 1st Munsif at Baruiopore against the State of West Bengal and others. The title of Md. Jalaluddin Gharami was declared in respect of the suit property along with some other properties. It was further declared that R.S. entry in

respect of the suit property is erroneous. Suffice to show that these documents have remained unchallenged and the legality and validity of the said documents are not in question. The clear legal inference that can be drawn from the said documents/exhibits is that the plaintiffs became the owner of the suit property and the information slip produced by the defendants to show that the said land is vested has no evidentiary value.

The Trial Court and the First Appellate Court, in our opinion, on proper appreciation of fact and law has returned a finding in favour of the plaintiffs. The concurrent findings of facts are based on cogent and credible evidence.

Under such circumstances, we do not find any reason to admit the second appeal.

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.)