

18 20.04.2022

SAT 127 of 2021

Ct-08

**Netaipada Saha & Ors.
Vs.
Ranjit Kumar Saha & ors.**

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Mr. Partha Pratim Roy
Mr. Dyutiman Banerjee
... For the Appellants

Mr. Kushal Chatterjee
Mr. Debrup Choudhury
... For the Respondents

The appeal has arisen out of an order dated 26th November, 2019.

Shown of unnecessary details, the preliminary decree was passed on 28th August, 2008. A defective appeal was carried to this Court on 20th June, 2011. By the learned trial court had already passed final decree on 27th August, 2010. The appellants participated in the final decree proceeding and the partition proceeding had culminated in the final decree and the parties have conducted themselves on the basis of the said final decree.

The appeal filed before this court for all practical purposes became infructuous by reason of the final decree. The preliminary decree merged with the final decree. The trial court, in our view, has rightly noticed that there was no explanation offered for the period from 28th August, 2009 to 20th June, 2011 for not filing an appeal before the High Court against the preliminary decree and subsequently final decree. The appellants were not diligent in pursuing the matter and also the conduct of the appellants does not inspire confidence with regard to the bona fide and credibility of the appellants.

On such consideration, we do not find any reason to interfere with the order dated 26th November, 2019. Accordingly, the appeal being SAT 127 of 2021 stands dismissed.

(Ajoy Kumar Mukherjee,J.)

(Soumen Sen, J.)