

17.08.2022
KC(9)

S.A.T. 396 of 2018
Rekha Kundu and Ors.
-versus-
Sujit Kumar Mukherjee and Ors.
With
CAN 1 of 2021
With
CAN 2 of 2022
With
CAN 3 of 2022
(Not in file)

Mr. Tapas Kumar Manna,
Ms. Anindita Majumder.....For the appellants.

Mr. Animesh Das.....For the respondents.

Re: CAN 1 of 2021.

This is a restoration application. Sufficient cause is shown.

The order dated 5th December, 2019 is set aside.

The second appeal (SAT 396 of 2018) is restored to its original file and number.

The application for restoration (CAN 1 of 2021) is allowed.

Re: S.A.T. 396 of 2018.

While considering whether to admit this second appeal or not, we heard learned counsel for the appellants as well as the respondents.

On an examination of the impugned judgment and decree of the first appellate court dated 14th August, 2018 we find that the learned judge has given adequate reasons to hold that the respondents/ plaintiffs reasonably required the subject flat of which the appellants were tenants for the occupation of respondent/plaintiff no. 1 himself and his family which included a married daughter.

By no stretch of imagination the finding of facts could be termed as perverse so as to give rise to a substantial question of law. No other question was raised.

Hence, we are of the view that no question of law, leave alone any substantial question of law, is involved.

We find no reason to admit this second appeal.

Considering the facts and circumstances of the case, we grant the appellants time till the end of February, 2023 to vacate the suit premises.

The execution proceeding shall not proceed till 28th February, 2023. Execution proceeding, if initiated may proceed on and from 1st March, 2023. If not initiated, execution proceedings may be commenced from 1st March, 2023.

Considering the last rent paid, the appellants shall pay from September, 2022, by the 7th of each and every month in advance, occupation charges @ Rs. 500/- (Five Hundred) per month to the respondents.

The appeal (S.A.T. 396 of 2018) is disposed of.

Connected applications (CAN 2 of 2022 and CAN 3 of 2022) are also disposed of.

(I.P. MUKERJI, J.)

(SUBHENDU SAMANTA, J.)