

25 04.05.2022

Ct-08

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SAT 134 of 2021

with

I.A No. CAN 2 of 2021

Juthika Paul & Anr.

Vs.

Swapan Santra & Anr.

Mr. Ratul Das

Mr. Samrajit Basu

Mr. Amartya Das

... For the Appellants

Mr. Uttam Kumar Bhattacharyya

Mr. Kaustav Mishra

... For the Respondent no. 1

This second appeal has come up for admission.

On the basis of the judgments of both the courts below and the materials available on record we propose to examine, if there is any substantial question of law involved in this second appeal.

The second appeal is arising out of the appellate judgement and decree dated 6th February, 2020 passed by learned Court of the First Fast Track at Sealdah, District-24 Pargnas (South) in Title Appeal No. 03 of 2019 thereby upholding the order dated 17th March, 2018 passed by learned Civil Judge, Junior Division, First Court at Sealdah, District-24 Parganas (South), in Title Suit No. 251 of 1994.

Both the courts below arrived at a concurrent finding that there is a reasonable requirement of the plaintiff of about 11 rooms and accordingly decreed the suit.

The plaintiff has stated that having regard to the present family position 11 rooms are required and the court below had noted the said

requirements in the order dated 17th March, 2018, although the plaintiff/respondent no. 1 submits that he is presently in occupation of 8 rooms.

The requirement of 11 rooms are required for the plaintiff is mentioned in the said order as follows:-

- 1) *one bed room of the plaintiff and his wife;*
- 2) *one bed room for the mother of the plaintiff;*
- 3) *one bed room for said 2nd daughter/Madhumita;*
- 4) *one bed room-cum-study room for the grandson i.e., son of the plaintiff;*
- 5) *one room for two married daughters who visit with their family;*
- 6) *one drawing room;*
- 7) *one dinning room;*
- 8) *one store room;*
- 9) *one kitchen;*
- 10) *one thakurghar;*
- 11) *one room for whole-time maid servant;*

It could not be disproved that the said requirements are illusory and not bona fide. The evidence on record also established the requirement of 11 rooms for enjoyment of the property in question. There are other grounds like default of paying rent and annoyance caused by the appellants. However, such grounds are not been gone into in view of the fact that necessity of 11 rooms having been established by the plaintiff/respondent no. 1, we are of the view that the plaintiffs are entitled to a decree for eviction we, thus, do not find any reason to admit this second appeal as it does not involve any substantial question of law.

On such consideration, we do not find any merit in the second appeal.

The second appeal is, therefore, summarily dismissed under Order XLI Rule 11 of the Code of Civil Procedure.

In view of dismissal of the second appeal, nothing remains to be decided in the application for stay and the same being CAN 2 of 2021 is accordingly dismissed.

(Sugato Majumdar,J.)

(Soumen Sen, J.)