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14-03-2022

Ct. 8

SAT 335 of 2019
CAN 1 of 2019 (old CAN 10844 of 2019)

Swapan Bag & Ors.
Versus
State of West Bengal & Ors.

Mr. Partha Pratim Roy, Adv.
Mr. Hare Krishna Haldar, Adv.
Ms. Poulami Chakraborty, Adv.
...for the appellants

We have heard Mr. Partha Pratim Roy, learned Advocate appearing on behalf of the appellants.

The learned Counsel for the appellants submits that the appeal is required to be admitted as provision of Section 6(5) of the West Bengal Estate Acquisition Act, 1953 was not followed.

We invited Mr. Roy to refer to the pleading in the plaint to show that any such pleading was made in the plaint. The learned Counsel has failed and he has candidly admitted that there is no such pleading.

In absence of any such pleading, the question of law as framed for alleged violation of Section 6(5) of the West Bengal Estate Acquisition Act cannot and does not arise. The plaintiff has never invited the learned Trial Court even the learned Appellate Court to decide the said issue. Moreover, we find in RSROR in Exhibit-2 series, that there is no mentioning of suit plot no. 2336, but 17 decimals out of 19 decimals of a 'Doba' appears to have been recorded in that RSROR in plot no. 2366 which appears at reverse side of the page no.3 of Exhibit-2 series. This document completely belied the claim of the plaintiff that the suit property

belongs to Indubhusan on the face of record i.e. Exhibit-2. The plaintiffs in both the Courts have failed to establish their title and ownership in respect of 17th decimals of land in the suit property. It is the concurrent finding of such issue.

On the basis of the oral and documentary evidence the said concurrent finding not being perverted, we are not inclined to admit the second appeal.

Accordingly, the second appeal, being SAT 335 of 2019 stands dismissed. However, there shall be no order as to costs.

In view of dismissal of the second appeal, the application being CAN 1 of 2019 (old CAN 10844 of 2019) is also dismissed.

(Ajoy Kumar Mukherjee, J.)

(Soumen Sen, J.)