

07.03.2022

Sl. 4

Ct.No. 03

Amalranjan

(Via Video Conference)

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

FA 208 of 2014

With

CAN 1 of 2014 (Old CAN 11569 of 2014) (stay)

With

CAN 2 of 2019 (Old CAN 11986 of 2019) (substitution)

Mrs. Sita Nayak & Ors.

Vs.

Sri Gobinda Charan Pyne & Ors.

Mr. Kaushik Dey

... for the appellants

Mr. Anirban Paul

Mr. Subhankar Das

...for the respondents

Re: CAN 1 of 2014 (Old CAN 11569 of 2014) (stay)

With

CAN 2 of 2019 (Old CAN 11986 of 2019)
(substitution)

This an intended appeal against the judgment and decree dated 28th April, 2014 dismissing the suit of the appellants/plaintiffs holding them to be “rank trespassers”. In that suit the respondents/defendants had counter-claimed for eviction of the appellants and for recovery of possession of the subject property, which was also decreed following the said order.

We are told that an independent appeal from that decree by the appellants is pending in this court (FAT 49 of 2020).

On examination of the impugned judgment and order, we find that it is a very well reasoned one after narrating and analysing the relevant facts and issues involved. We find no reason to interfere with the same.

The appeal is hereby dismissed.

At this point of time, learned counsel for the appellants submits on instruction that six months be given to his clients to vacate the subject premises.

We consider this submission as fair as it was made on a proper understanding of the ultimate legal result. This fair submission also curtails unnecessary litigation to obtain legal possession of the property by the respondents.

On the undertaking of the appellants expressed by their learned counsel not to proceed with the other appeal (FAT 49 of 2020) against the order of eviction and to vacate the suit property by 15th September, 2022 by delivering peaceful possession to the respondents. They are given time to vacate the subject property by 15th September, 2022. The execution proceeding before the court below would remain suspended till that date.

The above undertaking by the appellants shall be reduced into writing in the form of an

affidavit and filed in the department by 16th March, 2022.

A copy thereof is to be furnished to the advocate on record for the respondents.

In default of filing the undertaking or vacating the suit property by 15th September, 2022 the respondents shall mention the matter before the court below and would be free to execute the decree immediately.

The appeal (FA 208 of 2014) and the applications CAN 1 of 2014 (Old CAN 11569 of 2014) and CAN 2 of 2019 (Old CAN 11986 of 2019) are, accordingly, disposed of.

(Aniruddha Roy,J.)

(I. P. Mukerji,J.)