

08.09.2022
SL No.35
Court No.8
(gc)

SA 95 of 2021

**Sankar Bhagat
Vs.
Ramesh Show @ Sha**

The second appeal appeared in the daily list on 25th July, 2022 and no interest was shown by the appellant to move the second appeal.

The appellant is also not represented today nor any accommodation is prayed for on behalf of the appellant. Although, the appellant has sufficient knowledge and notice of the listing of this matter.

The second appeal was presented on 13th January, 2010, however, no attempt was made to move the second appeal for admission. The First Appellate Court has reversed the judgment and decree dated 28th November, 2003 passed by the learned Civil Judge in a suit for eviction. The learned Trial Judge declined to decree the suit on the ground that the plaintiff was unable to establish reasonable requirement. The evidence that had come on record would show that the plaintiff had three adult sons. The three rooms are insufficient to provide accommodation to the three sons in the event of their marriage. One of the sons has stated that he could not marry due to lack of accommodation. P.W.3 is the destitute sister of the appellant who resides in a rented accommodation. These evidences have not been shaken

during cross-examination but appeared to have been overlooked and ignored by the learned Trial Judge. During the pendency of the appeal, the plaintiff/appellant produced the registered partition deed as an additional evidence and was marked as Exhibit-5. The said partition deed, in fact, advanced the case of the appellant for need of those rooms for proper enjoyment of the property. Those rooms are reasonably required. No evidence has come on record to show that the plaintiff has any other accommodation.

On the basis of the evidence on record, we feel that the First Appellate Court has justified in accepting the case of reasonable requirement. We do not find any perversity in the findings arrived at in the First Appellate Court on the basis of the evidence on record. There is no substantial question of law is involved in this second appeal.

The second appeal, accordingly, stands dismissed at the admission stage.

However, there shall be no order as to costs.

(Uday Kumar, J.)

(Soumen Sen, J.)