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Ct-08

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FAT 668 of 2017
with
I.A No. CAN 1 of 2018 (Old No. CAN 3237 of 2018)

Smt. Sandhya Nath
Vs.
Mrs. Mili Chatterjee

Mr. Anirban Mitra
Mr. Amit Halder
Md. Wasim Akram
... For the Appellant

Mr. Kaushik Dey
... For the Respondent

By consent of the parties, the appeal and the application are taken up together for hearing.

This appeal is at the instance of the legal heir of the original tenant who died on 20th July, 1985. It is not disputed that the original tenant did not pay any rent after 16th July, 1980 and admittedly, the original tenant was a defaulter, when the suit was filed.

The present appellant claims to be the legal heir of the deceased original tenant and contested the suit on the ground that she is entitled to protection under the old Rent Act.

The learned trial judge having considered the judgement of the learned single Judge in Goutam Dey Vs. Jyotsna Chatterjee reported at AIR 2013 Cal 66 : 2013(1) CHN 536(Cal) which clearly held that such a tenant would have no vested right and could be evicted under the West Bengal Premises Tenancy Act after the period of five years after the death of the original tenant decreed the suit.

In view of the fact that the law is well-settled on the interpretation of Section 2(g) of the West Bengal Premises Tenancy Act, 1997 following

the catena of decisions including the decision of the division bench of this court in F.A 126 of 2019 (Satyanarayan More & Anr. Vs. Ms. Milagrina Rose Correia @ Millie Correia) on 3rd June, 2020, reported in 2020 SCC Online Cal 957 : (2020)3 Cal LT 501 there is no merit in this appeal.

Learned counsel appearing on behalf of the appellant has prayed for some time so that the appellant can find out an alternative accommodation and also urged that the appellant is unwell.

In view thereof, we grant time to the appellant to vacate and hand over the said premises to the plaintiff by 31st May, 2022 subject to payment of occupational charges at the rate of Rs.10,000/- (Ten Thousand) per month from the date of decree till 31st May 2022.

The occupational charges for the period from the date of the decree till 31st January, 2022 shall be paid on or before 30th April, 2022 and the balance amount for the period from February 2022 till 31st May, 2022 shall be paid on or before 31st May, 2022.

The appellant shall file an affidavit of undertaking to the aforesaid effect in this appeal before the Registrar General within two weeks from date upon furnishing a prior copy thereof to Mr. Kaushik Dey, learned counsel appearing for the respondent, failing which the appeal shall stand dismissed without further reference to court.

We make it clear that in the event, the occupational charges are not paid by 30th April, 2022 for the period mentioned above, this decree shall immediately executable through the bailiff of the trial court without any further reference to this court.

The decree shall remain stayed for three weeks and in the event the affidavit of undertaking is filed shall continue, subject to the fulfillment of all the other conditions mentioned in this order.

The appeal is, therefore, dispose of.

In view of the disposal of the appeal, nothing remains to be decided in the connected application for stay being CAN 1 of 2018 and the same is accordingly disposed of.

There will be no order as to costs.

(Ajoy Kumar Mukherjee,J.)

(Soumen Sen, J.)

