

Item 28. 06-06-2022

SAT 468 of 2017

sg Ct. 8

Bimala Devi Manot & Ors.
Versus
Seema Choudhury, since deceased,
represented by her legal heir Reema Ghosh

Mr. Probal Kr. Mukherjee, Sr. Adv.
Ms. Manju Agarwal, Adv.
Mr. B. Manot, Adv.

...for the appellants

Mr. Probal Kumar Mukherjee, learned Senior Counsel representing the appellants submits that in view of the death of the sole defendant, the married daughter of the sole defendant has no right of residence and cannot be considered to be a tenant in view of Section 2(g) of the West Bengal Premises Tenancy Act, 1997.

We find much substance in the said submission subject to fulfillment of the criteria under Section 2(g) of the West Bengal Premises Tenancy Act.

In view of the death of the sole defendant, who happens to be the wife of the original tenant, a married daughter may not have right to claim tenancy. However, this is an issue that may be required to be decided in freshly instituted suit. In view of the changed circumstances, the issue with regard to the reasonable requirement has now become academic.

However, in view of the fact that we are not deciding the issue of reasonable requirement, in any proceeding wherever any reliance is placed on the judgments of the trial court or the appellate Court as a defence to a claim of reasonable requirement, the trial court or the appellate court. as the case may be. shall

decide the said issue impartially and without being influenced by the findings arrived at by the trial court as well as the appellate court in Ejectment Suit No. 552 of 2009 and Ejectment Appeal No. 19 of 2015.

We make it clear that whenever an issue of reasonable requirement comes for consideration and reliance is placed on the impugned judgments in favour or against the trial Court or the appellate Court as the case may be, shall decide the said issue independent of the findings arrived at in the aforesaid proceedings. However, the evidentiary value of the reports relied upon by both the courts below may be relevant and needs to be assessed independent of the decisions impugned.

With the above observations, SAT 468 of 2017 is accordingly disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Siddhartha Roy Chowdhury, J.)

(Soumen Sen, J.)