

OD-2

APOT/105/2022
WITH
CS/110/2021
IA NO: GA/1/2022

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE

UTTAM SHAW
Versus
MAINAK BOSE

Before:

The Hon'ble Justice I. P. MUKERJI

And

The Hon'ble Justice SUBHENDU SAMANTA

Date: 14th July, 2022

Appearance:

Mr. B. N. Ray, Adv.

Ms. Shetparna Ray, Adv.

Ms. Parna Mukherjee, Adv.

Mr. Saswata Chatterjee, Adv.

...for the appellant

Mr. Surojit Nath Mitra, Sr. Adv.

Mr. Rishabh Karnani, Adv.

Mr. Anurag Bagaria, Adv.

...for the respondent

The Court : We have carefully examined the impugned judgement and order dated 10th May, 2022. It is short, lucid and well reasoned.

The judgement of the Supreme Court in Major S. S. Khanna -vs.- Brig. F. J. Dillon reported in AIR 1964 SC 497 cited by learned counsel for the appellant would not apply in this case because in that case determination of the pecuniary jurisdiction of the court had to be made by trial on evidence. That having not been made, the Supreme Court held that the High Court had made an error.

This suit by the respondent/plaintiff is for a decree of eviction, mesne profit, damages and arrear rent against the appellant/defendant after determination of his lease under the Transfer of Property Act, 1882. The plaintiff has the right of valuing his own suit reasonably. The claim

is for arrear rent along with mesne profit and damages aggregating to Rs.13,60,000/- to which the value of the property is to be added. On the face of the plaint, the valuation of the suit as made by the respondent plaintiff appears to be proper. In this case, in a summary way this Court is in a position to hold and we do hold that the valuation of the suit as made by the respondent plaintiff is correct. On the basis of this valuation, this court has the pecuniary jurisdiction to entertain, try and determine the suit.

As far as the second point is concerned, following the dictum of the Supreme Court in the case of Atma Ram Properties (P) Ltd. -vs- Federal Motors (P) Ltd. reported in (2005) 1 SCC 705, after determination of the lease, it is well within the province of the Court to order the occupant to pay reasonable occupation charges. Direction for payment at the rate of rent last paid is perfectly in order, according to us.

We do not see any reason even to admit this appeal.

The appeal (APOT/105/2022) and the connected application (IA No. GA/1/2022) are dismissed.

(I. P. MUKERJI, J.)

(SUBHENDU SAMANTA, J.)