

SAT 6 of 2015

Ct-08

**Krishna Prasad Maity
Vs.
Ranjit Kumar Maity & Ors.**

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The appeal is defective. However, no attempt has been made to remove the defects. The appeal is of the year 2015.

The appeal appeared in the warning list on 6th March, 2023 with a clear indication that the same shall be transferred to the regular list on 21st March, 2023, since then the matter is appearing in the list. The appellant is having deemed notice of the matter.

None appears on behalf of the appellant today.

The defects notified by the stamp reporter in his report dated 16.01.2015 have not yet been removed by the appellant for which we could have dismissed the appeal.

The appellate decree dated 11th August, 2014 is the subject matter of challenge in this second appeal.

We have carefully read the judgment of the first appellate court. The appellant has not filed the certified copy of the judgment of the trial court.

It appears from the judgment of the first appellate court that the suit was held to be barred by limitation under Section 113 of the Limitation Act. The plaintiff did not pray for cancellation of documents, which adversely affected his right, although he is claiming ownership, title and interest over the suit property as real purchaser. The plea of benami transaction was not specifically pleaded. The

suit is otherwise barred by under Section 4 of the Benami Property Transaction Act, 1988.

In absence of the appellant, we read the judgment along with the grounds of appeal and did not find any reason to admit the second appeal as it does not involve any substantial question of law.

The appeal accordingly fails.

The second appeal is, therefore, summarily dismissed under Order XLI Rule 11 of the Code of Civil Procedure at the admission stage

There will be no order as to costs.

(Uday Kumar,J.)

(Soumen Sen, J.)

