

Item-43. 23-03-2023

SAT 8 of 2015
CAN 1 of 2015 (old CAN 326 of 2015)

^{sg} Ct. 8

Krishna Dutta & Ors.
Versus
Malina Bala Ghosh & Ors.

Mr. Siva Prasad Ghosh, Adv.

...for the appellants.

The matter initially appeared in the warning list on 29th November, 2022 and thereafter transferred to the regular list on 5th December, 2022. There was a clear indication in the list that the matter shall be transferred to the daily cause list on 5th December, 2022 and since then the appeal is appearing in the list. The appellants have also not taken any step to remove the defects as notified by the Stamp Reporter on 16th January, 2015.

We could have dismissed the appeal for non-removal of the defects. However, we propose to have a look at the judgments of both the courts in order to find out whether the second appeal involves any substantial question of law.

The appeal is arising out of a judgment dated 27th August, 2014 and decree dated 5th September, 2014 passed by the learned Additional District Judge, 3rd Court, Barrackpore affirming the judgment dated 30th November, 2011 and decree dated 12th December, 2011 in a suit for ejectment and delivery of khas possession.

We have perused the judgments of both the courts. It appears that the application filed by the plaintiffs under Section 17(3) of the West Bengal Premises Tenancy Act was allowed and

by an order dated 10th September, 2009, defence against delivery of possession was struck off. The defendants challenged the said order before the Hon'ble High Court in C.O. 3622 of 2009 was unsuccessful as the said application was dismissed. The notice to quit was validly served upon the defendants. The plaintiff was able to prove its case for recovery of possession.

The concurrent findings of fact of the trial court as well as of the first appellate court based on the aforesaid evidence including the other evidence does not call for any interference. Moreover, it was not involved any substantial question of law.

In view of the aforesaid observation, the appeal stands dismissed.

In view of the dismissal of the appeal, the connection applications also stand dismissed.

(Uday Kumar, J.)

(Soumen Sen, J.)