

26 12.06.23

Ct. No. 04

akd

S.A. 34 of 2023

Smt. Mangala Seth & Anr.

Vs.

Smt. Debika Lahiri & Ors.

Mr. Kartick Kumar Bhattacharyya,

Ms. Soumashree Dutta.

... for the appellants.

The decree passed on the grounds of reasonable requirement is assailed by the tenants/defendants in the instant appeal on a solitary point that the plaintiffs/respondents did not file any suit against the other tenants of the ground-floor but chose to file the present suit against the present appellants.

Admittedly the family of the plaintiffs consist of himself and two sisters. According to the learned Advocate for the appellants, the plaintiff no. 1 is married and he does not dispute that there is no requirement as pleaded. What is contended in the instant appeal is that when the requirement of the plaintiffs is more than one room, there is no justification on the part of the plaintiffs/respondents in not instituting the suit for eviction against the other tenants who are admittedly occupying one room in the ground floor. The entire premises consist of two storeyed building containing six rooms in total. The plaintiffs are in possession of entire first floor comprising of three rooms and also in possession of one room in the ground floor.

We do not find any merit on the aforesaid point that the moment the requirement pleaded by the plaintiffs are more than the tenanted premises, they are not entitled to evict a tenant without instituting the suit for eviction against the other tenants. The law is settled in this regard that the plaintiff is the best judge of his requirement. It is the choice of the landlord against

whom the suit for eviction is required to be filed. The moment the plaintiffs/landlords decided to file a suit for eviction against one of the tenants and not against other tenants, it cannot lead to a situation that he would be debarred from getting a decree for eviction on the ground of reasonable requirement. The law does not recognize such eventuality nor can stand as a bar in passing a decree for eviction against the tenant. It is the choice of the landlord how to accommodate the family members after evicting the tenant from the suit premises and it is equally not open to the tenant to dictate the landlord how he should accommodate his family members into an existing accommodation.

The moment both the Courts found that the existing accommodation are not reasonable suitable and the plaintiffs reasonably require the suit premises, merely on the ground that the suit for eviction has not been filed against the other tenants of the ground floor, we do not find that the law puts any obstacle in passing a decree for eviction against a tenant on the ground of reasonable requirement.

The appeal does not involve any substantial questions of law. The same is dismissed.

There will be no order as to costs.

(Harish Tandon, J.)

(Prasenjit Biswas, J.)

