

SAT 68 of 2015

**Arunangshu Das & Ors.
-Vs-
Shyama Prasad Goswami & Ors.**

The appellants are not represented, nor any accommodation is prayed for on their behalf. The appeal has been reclassified by the department. The appeal is of the year 2015. No attempt was made by the appellant to remove the defects as reported by the Additional Stamp Reporter in its report dated 06.03.2015. The matter initially appeared in the Warning List on the 6th of March, 2023 and thereafter transferred to the Regular List on 21st March, 2023. Since then the matter is appearing in the list.

The Additional Stamp Reporter in his Report dated 06.03.2015 has referred to certain minor defects.

Notwithstanding the aforesaid, we propose to decide this Second Appeal.

We have read the Second Appeal arising out of the Judgment and Decree dated 30th August, 2014 passed by the 1st Appellate Court affirming the Judgment and Decree dated 19.12.2011 passed by the Learned Civil Judge in a suit for eviction and mesne profits.

The plaintiffs filed the instant suit for eviction on the ground of reasonable requirement.

The family of the plaintiff consists of six members. The

plaintiff is a retired engineer and he wanted to open a private engineering service/drawing office for enhancement of his income after retirement. His son is a sales executive, who also requires a room for consultation with his clients. The daughter-in-law is a School Teacher and she requires a room for private tuition. The plaintiff was able to establish on the trial that he urgently require two rooms, one room for his son's consultancy; one room for his daughter-in-law for tuition; and a room to be used as a guest room.

The defendants urged that the landlord has a separate accommodation and the son of the plaintiff stays at a difference place, hence there would be no room for any business purpose.

On evidence, it is found that the family members of the plaintiff consists of plaintiff, plaintiff's wife, married son, daughter-in-law, two grand-daughter, married daughter and a full time servant.

The Learned Trial Court on the basis of the evidence held that three bed rooms and a drawing room with space and dinning space; a *Thakurghar*; a *Varanda* and a kitchen are found to be in the occupation of the residential portion of the plaintiff.

Considering the status and the entitlement of the plaintiff for a comfortable living in accordance with his life style, the alteration made in the living room cannot be said to be mala fide or for the purpose of getting a decree for eviction, as such the renovation as regards the number of rooms that

may be at the disposal of the plaintiff's suit.

The Learned Trial Court for the purpose of reasonable requirement held that the plaintiff is entitled to (1) one bed room for the plaintiff and his wife, (2) one bed room for the plaintiff's son and his family (3) one guest room for the married daughter and the visitor (4) one office room and a room for drawing and design for plaintiff (5) kitchen (6) bath cum privy (7) drawing room (8) kitchen (9) dinning room (10) thakur ghar. The Learned Trial Court held that there is shortage of space in the residential accommodation of landlord for the office room and room for drawing and designing is apparent one.

The Learned Trial Court also relied upon the Report of the Commissioner which would show that the room on the third floor is of very low height and narrow and the room at the attick is very small and unsuitable for the purpose of office.

The Appellate Court concurred with the said findings relied upon by the Commissioner's Report and the evidence of the plaintiff with regard to the reasonable requirement. The said reasons do not appear to be illusory or mala fide or perverse.

Considering the above facts and the findings, the appeal is dismissed at the admission stage.

However, there will be no order as to costs.

(Uday Kumar, J.)

(Soumen Sen, J.)

