

31.03.2023
SL No.14
Court No.8
(gc)

SAT 80 of 2015

Afajuddin & Ors.

Vs.

Secretary - Md. Mojaful Khan & Ors.

Mr. Pinaki Dhole,
Mr. Ziaur Rahaman,
...for the Appellants.

We have heard the learned Counsel for the appellants.

The concurrent findings of facts with regard to the right, title and interest of the plaintiffs in the suit property declared by the Trial Court and affirmed by the Appellate Court is the subject matter of challenge in this second appeal.

The Trial Court's as well as the Appellate Court's findings are based on admission on behalf of the plaintiffs with regard to the share of the plaintiffs in the suit property. It appears that the plaintiffs have alleged that the defendants are trespasser of the 'Kha' Schedule property as they have no right, title and interest over the suit property. There is also a dispute with regard to the 'Ga' Schedule property. It appears from the evidence that the plaintiffs have been possessing 01 decimal of land in 'Ka' Schedule property by constructing dwelling house which is more than 100 years back. It also transpired that 1 satak property in respect of 'Kha' schedule property is used as a common passage of plaintiffs and the

defendants. It was in the aforesaid context and evidence on record, the learned Trial Judge decreed the suit in part. One of the directions was that the defendants would deliver peaceful vacant possession of 1 satak of 'Kha' schedule property out of 2 satak of property to the plaintiffs.

The appellants challenged this decree. Indisputably, the appellants themselves have produced a rough sketch map clearly indicating the entitlement of the plaintiffs. Admission is a best piece of evidence. Accordingly, the second appeal fails.

The second appeal being SAT 80 of 2015, accordingly, stands dismissed.

However, there shall be no order as to costs.

(Uday Kumar, J.)

(Soumen Sen, J.)