

25 08.5.2023

SAT 170 of 2015

Ct-08

**Sk. Mohammed Rafique
Vs.
Sk. Niyamat Ali & Ors.**

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Mr. Jayanta Kumar Das
Mr. Gourav Das
... For the Appellant

We have heard the learned counsel representing the appellant.

The first appellate court has reversed the judgment of the trial court on the ground that the appellant has failed to prove the partition by means and bounds. It is not in dispute that the plaintiff has failed to produce any document showing partition by way of family arrangement. The evidence of the brothers supporting the appellant was also oral. A co-sharer cannot be treated as a licensee. A co-sharer owns a share in the property as much as in other co-sharers. The first appellate court has rightly pointed out in terms of Section 14 of the Land Reforms Act that no partition except by way of a registration or by a decree of court can be accepted.

On such consideration, we do not find any reason to interfere with the order passed by the first appellate court.

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.)

