

20 18.5.2023

Ct-08

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SAT 170 of 2016

Sricharan Dolui

Vs.

The Chairman, Panskurah Municipality & Ors.

The appellant is not represented.

The appeal is appearing in the list on and from 14th February, 2023. Therefore, the appellant is having deemed notice of the matter.

All the defects have not yet been removed till date.

The appellate judgment and decree dated 28.01.2016 affirming the judgment and decree passed by the trial court on 26.03.2012 in a suit for declaration and permanent injunction is the subject matter of challenge in this second appeal.

We have carefully read the judgment of both the courts below and the grounds of appeal in order to find whether this appeal involves any substantial question of law or not.

The trial court dismissed the suit.

The plaintiff appears to have failed to prove his legal character in relation to property in question. The plaintiff claims to be the bargadar. However, it appears that the property was vested to the Government free from all encumbrances. The claim of the plaintiff is that he was a riyat in the suit property for over 30 years also could not be proved. In the alternatively to be a lessee, which was also not proved

After going through the judgment of the trial court as well as the first appellate court we are of the view that the plaintiff's claim to be a bargadar was not proved. On examination of the oral and documentary evidence as well as the reappreciation of the evidence, the first appellate

court dismissed the title appeal.

On such consideration, we do not find any reason to admit the second appeal. The concurrent finding of facts does not call for any interference.

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.)

