

Item-41. 10-01-2023

SAT 214 of 2015

sg Ct. 8

Swapan Seal
Versus
Santosh Kumar Banerjee & Ors.

The matter initially appeared in the warning list on 29th November, 2022 and thereafter transferred to the regular list on 5th December, 2022. There was a clear indication in the list that the matter shall be transferred to the daily cause list on 5th December, 2022 and since then the appeal is appearing in the list.

The appellant also did not appear on the earlier occasion i.e. on 19th June, 2017. The appellant has not taken any step to remove the defects as notified by the Stamp Reporter on 1st June, 2015. It is clear that the appellant is not interested to proceed with the matter.

However, we have perused the judgments of the first appellate court dated 29th November, 2014 affirming the judgment and decree dated 25th March, 2011 in a suit for eviction and damages on the ground of default, reasonable requirement and building re-building.

From the judgment it appears that the suit was decreed on the ground of reasonable requirement. The trial court relied upon the evidence of the parties including the report of the Advocate Commissioner. It appears from the report of the Advocate Commissioner that the plaintiff and his family require a larger accommodation. The said requirement appears to be reasonable and not illusory.

The first appellate court has considered the evidence in

detail and on re-appreciation of the evidence, has concurred with the view of the trial court. The first appellate court has relied upon the decisions of the Hon'ble Supreme Court and the Hon'ble High Court with regard to law defining reasonable requirement and applied the said principles in the facts of this case and thereafter decreed the suit.

The factual matrix of the matter has been elaborately discussed by both the trial court as well as the first appellate court. The report of the Advocate Commissioner has remained unshaken.

Accordingly, the second appeal fail at the admission stage.

(Uday Kumar, J.)

(Soumen Sen, J.)