

20 17.01.2023
AN Ct. No. 08

SAT 211 of 2016

Kazi Jalilur Rahaman
vs.
Sanjib Kumar Chakraborty & anr.

The file is defective as reported by the Stamp Reporter in its report dated 09.06.2016. It appears that the Coordinate Bench of this Court dated 05.02.2020 adjourned the matter on the prayer of the appellant that the appellant would remove the defects as pointed out within two weeks, in default, the appeal would stand dismissed without however any further reference to the Court.

This matter was appearing in the Warning List of cases since 29.11.2022 until it was transferred to the regular list on 05.12.2022 and since then the matter is appearing in the list. The appellant is served due notice about the pendency of the appeal which clearly shows that the appellant is not interested to proceed with the appeal. No steps have been taken to remove the defects either.

The Section Officer, Superintendent of Stamp Reporter Section dated 04.01.2023 shows that the defects as pointed out by the Stamp Reporter in a report dated 09.06.2016 has not been removed. In view of the failure to remove the defects, the Stamp Reporter is unable to opine as to whether the appeal is barred by limitation or any stamp duty has been paid.

We have perused both the judgment and decree of

learned trial court. Learned trial court decreed the suit on arriving at a conclusion and clear finding that the appellant is a habitual defaulter and the tenancy is determinable by serving a notice under Section 106 of the Transfer of Property Act. The service of notice was duly proved.

On such consideration, we do not find any reason to interfere with the order passed by both the Courts. Concurrent findings are based on evidence. The other report liable to be dismissed for non-removal of the defects.

Hence, the instant appeal stands dismissed however without any order as to costs.

(Uday Kumar, J.)

(Soumen Sen, J.)