

Item-53. 25-04-2023

SAT 234 of 2015
CAN 1 of 2015 (old CAN 8357 of 2015)

^{sg} Ct. 8

M/s. Chiranjee Lal Hariprasad,
represented by the partners, Bijoy Murarka
Versus
Basanta Kumar Bajoria & Anr.

Mr. Probal Kumar Mukherjee, Sr. Adv.

Ms. Shebatee Datta, Adv.

...for the appellant

The appellate decree and judgment dated 26th February, 2015 passed by learned Additional District Judge, (Redesignated) Court at Bankura, District Bankura affirming the judgment and decree dated 21st January, 2013 passed by the learned Civil Judge (Junior Division), 1st Court in a suit for eviction is the subject matter of challenge in this appeal.

The learned Trial Judge decreed the suit on the ground of damages, reasonable requirement and subletting.

The learned Counsel for the appellant submits that the finding of the Trial Court with regard to reasonable requirement was not even discussed although, the conclusion is arrived at by the learned Trial Judge in favour of the plaintiff with regard to such necessity. It is submitted that the First Appellate Court decided the issue of reasonable requirement without any satisfactory evidence that the appellant has closed his coal business.

With regard to subletting, both the courts have arrived at on the basis of the evidence. It appears that although the partnership may have been the original tenant but in reality, the partners are

carrying on independent business from the premises and a third party has been inducted to carry on such business. Both the courts had relied upon the report of the Commission in which the Commissioner found existence of few persons unconnected with the partnership and they could not explain their presence during such visit.

On the basis of the evidence it needs to be assessed whether sub-tenancy, in fact, has taken place or not. Camouflage, if any, needs to be pierced to find out the real identity and it cannot be said that on the basis of the evidence, the findings arrived at by both the courts with regard to sub-tenancy is not established. Even if a doubt is raised with regard to sub-tenancy, in our view, reasonable requirement has been proved without any doubt.

The plaintiff has categorically stated in his evidence that he is residing in a tenanted premises in Ranchi for the last 8 to 10 years and because of the health condition, he decided to close the coal business and wanted to open a grocery shop at the suit premises. Admittedly, the plaintiff has no other accommodation in Kolkata.

On the basis of the evidence, it cannot be said that it is a mere desire and the claim is illusory. As observed by Justice Tarun Kumar Gupta in *Narayani Bala Dasi & Ors. vs. Sri Durga Prasad Sen* reported in (2011) 3 WBLR CAL page 217 that “there is no denial that reasonable requirement is something more than mere desire, but less than utmost necessity”, the utmost necessity for the livelihood of the decree-holder is adequately established by

the evidence on record.

Under such circumstances, we do not find any reason to interfere with the judgment passed by the learned First Appellate Court affirming the judgment of the learned Trial Court. The second appeal fails. However, there shall be no order as to costs.

(Uday Kumar, J.)

(Soumen Sen, J.)