

28.04.2023
SL No.19
Court No.8
(gc)

SAT 249 of 2015
CAN 1 of 2015 (Old No: CAN 10563 of 2015)

Md. Monirujjaman
Vs.
Mamata Ghosh & Anr.

The appellant is not represented, nor any accommodation is prayed for on behalf of the appellant. The appeal is of the year 2015. The matter initially appeared in the Warning List on 6th March, 2023 and thereafter transferred to the Regular List on 21st March, 2023. Since then the matter is appearing in the list. The appellant has due notice about the listing of the matter. The appeal is still defective.

We have read the judgment of the Trial Court as well as the First Appellate Court and the grounds of appeal in order to find out whether the second appeal involves any substantial question of law.

The appellate judgment and decree dated 24th February, 2015 dismissing the judgment and decree dated 30th August, 2013 passed by the Trial Court in a suit for declaration and mandatory injunction is a subject matter of challenge in this second appeal. The suit property was claimed to be a dwelling house. It was filed under Section 44 of the Transfer of Property Act. The learned Trial Judge on being satisfied that the property in question is a

dwelling house and taking into consideration the documents showing the character of a scheduled property as a dwelling house decreed the suit on contest. The defendant No.1 and his agents were directed to be evicted from the suit property. It was established at the trial that the appellant/defendant No.1 is a stranger to the plaintiff and he cannot claim possession, the only relief available to him for partition.

On such consideration, we do not find any reason to interfere with the order passed by both the Courts.

Accordingly, the second appeal stands dismissed at the admission stage.

In view of dismissal of the second appeal at the admission stage, the connected application also stands dismissed.

However, there shall be no order as to costs.

(Uday Kumar, J.)

(Soumen Sen, J.)