

10.01.2023
SL No.44
Court No.8
(gc)

SAT 266 of 2015
CAN 1 of 2015 (Old No: CAN 6204 of 2015)
CAN 2 of 2015 (Old No: CAN 11249 of 2015)

Suresh Mandal & Ors.

Vs.

Ranjita Mandal & Ors.

This matter appeared in the Warning List of 29th November, 2022 with a clear indication that this matter shall be transferred to the Regular List on 5th December, 2022. Since then the matter is appearing in the list. The appellants have due notice of the matter. The appellants are not represented.

The appeal is defective. The revised report dated 13.07.2015 shows that all the defects have not been cured. However, we read the memorandum of appeal along with the judgments of the Trial Court and the First Appellate Court to find whether the second appeal involves any substantial question of law.

The appellate judgment and decree dated 07.05.2015 by which the judgment and decree of the Trial Court dated 2nd April, 2014 in a suit for partition is a subject matter of challenge in this second appeal. Initially the suit was decreed, however, by an order of remand, the suit was dismissed for defect. The First Appellate Court affirmed the said order. The First Appellate Court had noticed that in spite of giving several opportunities to the appellants to cure the defects, the appellants did not do so. The appeal was

preferred beyond the period of limitation without explaining the delay.

On such consideration, we do not find any reason to interfere with the order passed by the First Appellate Court.

The second appeal, accordingly, stands dismissed at the admission stage.

In view of dismissal of the second appeal, the applications also stand dismissed.

(Uday Kumar, J.)

(Soumen Sen, J.)