

28.04.2023
SL No.22
Court No.8
(gc)

SAT 268 of 2015

Md. Estulla Gazi @ Malek Gazi & Ors.

Vs.

Md. Majid Sardar & Ors.

The appellants are not represented, nor any accommodation is prayed for on behalf of the appellants. 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 appellants have due notice about the listing of the matter. The appeal is still defective.

The appellate judgment and decree dated 5th May, 2015 affirming the judgment and decree dated 29th February, 2008 passed by the Trial Court in a suit for partition is a subject matter of challenge in this second appeal. The appellants in spite of due notice did not file the certified copy of the decree. No attempt was made to remove the defect. 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 First Appellate Court affirming the decree passed by the Trial Court on the ground that the suit was not maintainable as the right of the plaintiffs has already been adjudicated

upon in an earlier proceeding between the parties and it has finality.

On such consideration, the second appeal stands dismissed.

However, there shall be no order as to costs.

(Uday Kumar, J.)

(Soumen Sen, J.)