

23 18.5.2023

Ct-08

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SAT 294 of 2016

**Smt. Niva Rani Dutta & Ors.
Vs.
Debdas Modak**

The appellants are not represented.

The appeal is appearing in the list on and from 14th February, 2023. Therefore, the appellants are having deemed notice of the matter.

The defects indicated by the stamp report on 22nd July, 2016 have not yet been removed till date.

The appellate court's judgment and decree dated 19.4.2016 affirming the judgment and decree dated 31.7.2015 in a suit for ejectment is the subject matter of challenge in this second appeal.

We have carefully read the judgment of both the courts below and the grounds of appeal in order to find whether this appeal involves any substantial question of law or not.

It appears from the judgment of the trial court that the plaintiff was able to prove reasonable requirement in arriving at the said finding apart from the oral evidence of the plaintiff and the report of the Advocate Commissioner was taken into consideration.

Both the courts have arrived at a conclusion that the plaintiff was able to make out inadequacy of space and accommodation as he was living in one room. The claim is not illusory.

On such consideration, we do not find any reason to admit the second appeal. The concurrent finding of facts does not call for any interference.

The appeal accordingly fails.

The second appeal is, therefore, summarily dismissed under Order XLI Rule 11 of the Code of Civil Procedure at the admission stage

There will be no order as to costs.

(Uday Kumar ,J.)

(Soumen Sen, J.)