

25 18.5.2023

Ct-08

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SAT 300 of 2016

**Aloke Nandy
Vs.
Jamuna Nandy & Anr.**

The appellant is not represented.

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

The defects indicated by the stamp report on 26th July, 2016 have not yet been removed till date.

The appellate court's judgment and order dated 22.4.2016 affirming the judgment and decree dated 12.8.2011 in a suit for eviction of a licensee 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 both the courts below that the creation of licence was duly proved the ownership of Gopal Nandy as the original plaintiff was established and in fact was admitted by D.W 1 during his cross-examination.

The contention of the plaintiff that the defendant was inducted was a licensee in or about 1st October, 1991 was adequately proved by the oral and documentary evidence. The plaintiff was able to prove that Bijoy Krishna, the brother of the original plaintiff was permitted to possess the suit property and he died in the year 1991 as a bachelor. The appellant is the son of one of the brothers. He was occupying the premises without any rent. The suit property exclusively belonged to the plaintiff by reason of

arbitration award dated 13.12.1976. It is admittedly could not prove tenancy.

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.)

