

18.05.2023
SL No.27
Court No.8
(gc)

SAT 315 of 2016

Santu Sarkar & Anr.

Vs.

Hriday Sarkar & Ors.

The appellants are not represented, nor any accommodation is prayed for on behalf of the appellants. The appeal is of the year 2016. The matter is appearing in the list from 14th February, 2023. The appellants have due notice about the listing of the matter.

The appellate judgment and decree dated 31st May, 2016 affirming the judgment and decree dated 16th December, 2014 passed by the Trial Court in a suit for eviction, declaration of title and permanent injunction is a subject matter of challenge in this second appeal.

We have carefully read the judgment of both the Courts and the grounds of appeal. The plaintiffs were able to prove title in respect of the suit property on the basis of R.S.R.O.R. and L.R.R.O.R and Exhibit-4 series which contains details of Khatian No.682 and 683 over which the plaintiffs have made claim. It appears from the evidence as recorded by the Trial Court as well as the First Appellate Court that the suit property originally belonged to one Tura Dai and the R.S. record also recorded the name of Tura Dai and Brajobala Devi in Khatian No.187 as VITA (Exhibit-1) and Tura transferred

22 decimal of land to Samity by executing a deed of gift in 1964 (Exhibit-2) and Samity thereafter mutated their names in a record and Khatian No.217 for 22 decimal of land in Plot No.260 (Exhibit-11/3). In fact, Samity also constructed an office and godown in some portion of the said land and the other portion of the land was possessed by the father of the plaintiffs. On a request being made by the father of the plaintiffs, the Secretary agreed to sell a portion of the property which would be evident from the Exhibit-8 and a communication to that effect was also made to the Assistant Registrar of Cooperative Society, Balurghat for getting the required permission. After obtaining required permission, Samity sold 13 decimal of land out of 22 decimal of land in Plot No.260 vide deed No.799 of 2007 with specific boundary (Exhibit-3). These documents clearly established a title of the plaintiffs. The First Appellate Court on consideration of the aforesaid documents and on re-appreciation of the materials available on record, accepted the judgment of the Trial Court.

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.

However, there shall be no order as to costs.

(Uday Kumar, J.)

(Soumen Sen, J.)