

Item-29. 18-05-2023

SAT 317 of 2016
CAN 1 of 2016 (old CAN 7452 of 2016)

sg Ct. 8

Chand Shaw
Versus
Ardha Chandra Adhikari

The appellant is not represented nor any accommodation is prayed for on behalf of the appellant.

The matter is appearing in the daily cause list since 14th February, 2023. In spite of having due notice and knowledge that the matter is pending, the appellant is not represented.

The appeal is defective since 4th August, 2016.

The appellate judgement and decree dated 4th May, 2016 and 6th May, 2016 affirming the judgment and decree of the trial court in a suit for declaration with consequential relief for permanent injunction is the subject matter of challenge in this second appeal.

The plaintiff claimed to be a tenant in respect of the suit shop room under the defendant. The appellant/plaintiff contended that he became a tenant under the defendant upon payment of rent and he was running a cloth shop in the suit premises since 1970. Suddenly, the defendant stopped receiving any rent and it was alleged that the defendant illegally and wrongfully disconnected the electric line of the suit premises on 29th August, 2002. It is further alleged that the defendant had to illegally dispossess the plaintiff. The defendant contested the suit by filing written statement. The defendant alleged that one Dasarath Prasad Shaw took lease of one shop room from the elder brother of the defendant, Purna Chandra, for a period of three years under a written agreement. On his death, Jagadish Prasad carried on the

business in the suit premises and on his death, the present defendant took possession of the suit premises but the plaintiff again started making false claim over the suit premises.

The Trial Court on consideration of the oral and documentary evidence, arrived at a definite finding that the relationship of the landlord-tenant is not established. No rent receipt was ever produced.

The First Appellate Court in affirming the judgement relied upon the said evidence. The Appellate Court has considered the evidences of PWs. 1, 2 and 3 and D.W.1. D.W. 1 has categorically denied the relationship of landlord-tenant.

The plaintiff never claimed any tenancy right on the basis of the lease deed executed between Dasharath and Purna Chandra. Moreover, the defendant was not a party of the suit lease deed.

In the absence of any evidence of tenancy or production of any rent receipt, the findings arrived at by the learned Trial Court as well as the learned First Appellate Court do not call for any interference.

The appeal stands dismissed at the admission stage.

In view of the dismissal of the appeal, the connection application also stands dismissed.

(Uday Kumar, J.)

(Soumen Sen, J.)