

Item-31. 18-05-2023

sg Ct. 8

SAT 320 of 2016
Kanan Bala Biswas & Anr.
Versus
Mrinal Mondal & Ors.

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

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 appellants are not represented.

The appeal is defective since 5th August, 2016.

The appellate judgement and decree of the First Appellate Court dated 17th May, 2016 affirming the judgment and decree of the Trial court dated 5th December, 2015 in a suit for declaration, injunction and for eviction of the licensees is the subject matter of challenge in this second appeal.

It appears that the certified copy of the trial court judgment was not filed in spite of such defects being notified on 5th August, 2016.

Hence, we are unable to consider the judgment of the Trial Court. However, it appears from the judgment of the First Appellate Court that the contention of the appellants that they become the owners by reason of adverse possession could not be established. The pre-requisites of adverse possession could not be established by the appellants before the trial court. There was no evidence that their possession was adverse, open and continuous and with the knowledge of the plaintiffs since 1973. On the contrary, it appears that the defendants came to the suit property in the year 1990 with the permission of one Harimohan Mondal. The

DW-2 also admitted that the permission was removed by the plaintiffs when they became majority.

We do not find any reason to interfere with the judgment and order passed by the First Appellate Court in affirming the judgment of the Trial Court.

The appeal stands dismissed at the admission stage. However, there shall be no order as to costs.

(Uday Kumar, J.)

(Soumen Sen, J.)