

Item-51. 19-01-2023

SAT 334 of 2016
CAN 1 of 2016 (old CAN 7892 of 2016)

sg Ct. 8

Lakshman Mondal
Versus
Sukumar Das

The matter initially appeared in the warning list on 29th November, 2022 and thereafter transferred to the regular list on 5th December, 2022. There was a clear indication in the list that the matter shall be transferred to the daily cause list on 5th December, 2022 and since then the appeal is appearing in the list.

The appeal is defective. Earlier on 30th August, 2016, a coordinate Bench granted leave to the appellant to rectify the defects. However, no attempt has been made since then till date to remove the defects.

We could have dismissed the appeal for non-removal of the defects. However, we propose to have a look at the judgments of both the courts in order to find out whether the second appeal involves any substantial question of law.

We have also read the memorandum of appeal.

The judgment of the first appellate court dated 26th April, 2016 affirming the judgment and decree passed by the trial court on 22nd September, 2014 in a suit for eviction, inter alia, on the ground of reasonable requirement is the subject matter of challenge in this second appeal.

Both the courts, on consideration of the evidence – oral and documentary, including the evidence of the Commissioner appointed by the first appellate court – have arrived at a finding that

the present accommodation of the plaintiff is inadequate considering the need and composition of his family. The requirement of the plaintiff does not appear to be illusory.

On such consideration, we do not find any reason to interfere with the concurrent findings of fact on this issue.

The second appeal fails. However, there shall be no order as to costs.

In view of the dismissal of the second appeal, the connected applications also stand dismissed.

(Uday Kumar, J.)

(Soumen Sen, J.)