

**ASR 46.
9.2.2023**

**SA 303 of 2019
With
CAN 1 of 2019 (Old CAN no. 9263 of 2019)
With
CAN 2 of 2020
With
CAN 3 of 2020**

**Sri Nawal Kshore Rajak
Vs.
Rama Sardar & Ors.**

Mr. Purnasish Gupta

**.....For the appellant
Mr. Tapas Kumar Dey
Mr. Ashis Kumar Dutta
Mrs. Saswati Ghosh Sinha**

..... For the respondents

No question of law far less any substantial question of law is involved in this appeal.

We find no error in the judgement and decree of the learned courts below.

Both the learned courts have come to a finding that construction of the G+4 storied building was almost complete except with regard to the portion of the subject premises in the possession of the appellant.

Furthermore, the said portion was required for re-building/re-construction. The appellant was given specific time to vacate the premises to enable such construction. Thereafter, the respondents were prescribed a stipulated time period to complete the

construction, after which the appellant could re-enter or repossess the tenanted premises.

The first appellate court while affirming the judgement and decree of the learned trial judge made a modification thereof to the extent that instead of two months the time to reinstate the appellant from the date of his handing over possession was extended to three months “subject to payment of agreed between the parties as per the then market value”.

We are of the view that the said judgement and decree of the first appellate court as affirmed by the learned first appellate court is perfectly in order save and except the last part which has directed sale/purchase of the tenanted premises.

That part of the judgement and decree is set aside, inasmuch as in our opinion, it is contrary to law.

The rest of the judgement and decree of the first appellate court is affirmed.

The appeal and the connected applications are disposed of accordingly.

(I. P. Mukerji,J.)

(Biswaroop Chowdhury,J)