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Ct-08

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SAT 375 of 2016

**Sri Ashok Aich
Vs.
M/s Hindustan Corporation**

The appellant is not represented.

The appeal is appearing in the list on and from 14th February, 2023. Therefore, the appellant is having deemed notice of the matter.

The defects indicated by the stamp report on 29th August, 2016 have not yet been removed till date.

The judgment of the first appellate court reversing the judgment of the trial court in a suit for ejectment is the subject matter of challenge in this second appeal.

We have carefully read the judgment of both the courts below and the grounds of appeal in order to find whether this appeal involves any substantial question of law or not.

The judgment of the trial court was reversed by the first appellate court on the ground that the defendant has an alternative accommodation and the few of the electricity consumption bills, apart from suggesting that the defendant is not occupying the said premises for a considerable period of time, that were disclosed are in the name of a person gives an impression that the property was sublet and the defendant is not occupying the suit premises. It is quite discernable that the defendant was unable to explain the reason for the electricity bills raised in the name of Aloka Debi for the portion in occupation of the defendant. The first appellate court has noted that the property in which the defendant is in occupation is standing in the name of his wife. The question that the premises

of the wife cannot be treated as property of the husband was not accepted. Having regard to the fact that there was no evidence to show that the parties are living separately and having of strained relationship.

The first appellate court has followed the ratio laid down in the decision of the Hon'ble Supreme Court reported in 2002(3) SCC 299(Padmavati Devdatta Kamat (Smt) & Ors.) where the Supreme Court held that the acquisition of residential building by tenant in the name of the son for the benefit of the entire family is a suitable alternative accommodation.

Under such circumstances, we do not find any reason to interfere with the judgment passed by the first appellate court. The concurrent finding of facts does not call for any interference.

The appeal accordingly fails.

The second appeal is, therefore, summarily dismissed under Order XLI Rule 11 of the Code of Civil Procedure at the admission stage

There will be no order as to costs.

(Uday Kumar ,J.)

(Soumen Sen, J.)

