

16.05.2023
SL No.27
Court No.8
(gc)

SAT 415 of 2015

Jamser Bepari & Ors.
Vs.
Moslem Bepari & Ors.

The appellants are not represented, nor any accommodation is prayed for on behalf of the appellants. The appeal is of the year 2015. The matter initially appeared in the Warning List on 6th March, 2023 and thereafter transferred to the Regular List on 21st March, 2023. Since then the matter is appearing in the list. The appellants have due notice about the listing of the matter. The appeal is defective since 28th August, 2015. No attempt has been made to remove the defect.

The appellate judgment and decree dated 30th May, 2015 affirming the judgment and decree dated 14th August, 2014 passed by the Trial Court in a suit for declaration of title and for recovery of khas possession is a subject matter of challenge in this second appeal.

We have carefully read the judgment of both the Courts and the grounds of appeal. Both the Courts have arrived at a finding that the defendants have failed to prove ownership by purchase or by adverse possession. There was no plea of tenancy. In absence of proof of either the possession, all the appellants are of permissive occupation. The said finding was based on the evidence of P.W.1 and on consideration of record of rights and rent

receipts. The defendants could not bring the certified copy of 'touzi' of the suit plot R.S. 303 (LR 334) to prove its claim. The basis of the entry standing in the name of the predecessor of the defendants in the suit plot in L.R. Khatian No.317 cannot, thus, be ascertained with regard to the claim of the ownership in respect of the suit property. The alternative claim of adverse possession also could not be established. The defendants could not prove that their predecessor had purchased the suit plot from Abdul Bepari.

Under such circumstances, we do not find any reason to interfere with the order passed by both the courts.

Accordingly, the second appeal stands dismissed at the admission stage.

However, there shall be no order as to costs.

(Uday Kumar, J.)

(Soumen Sen, J.)