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Ct-08

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SAT 423 of 2016

with

I.A No. CAN 1 of 2016(Old CAN No. 10695 of 2016)

CAN 2 of 2017(Old CAN No. 1514 of 2017)

Smt. Jayashree Basu

Vs.

Smt. Anjali Ghosh

The appeal appeared in the warning list on 29th November, 2022 with a clear indication that the same shall be transferred to the regular list on 5th December, 2022, since then the matter is appearing in the list. Therefore, the appellant has due notice.

The appellate decree dated 30th June, 2016 affirming the judgment and decree passed by the trial court on 31st March, 2008 in a suit for eviction is the subject matter of challenge in this second appeal.

We have carefully gone through the judgment of the trial court as well as the first appellate court.

The plaintiff filed a suit for eviction on the ground of sub-letting and reasonable requirement. The tenancy was duly determined. The plaintiff was able to establish issue no. 3 i.e. sub-letting. The plaintiff has disclosed oral and documentary evidence for sub-letting.

The first appellate court relying upon the fresh consideration of the evidence adduced before the trial court arrived at a finding that the trade licence produced by the K.M.C clearly shows that Uttam Dhara is running the business from the suit premises without any consent of the plaintiff. The appellant took the plea that Uttam Dhara is working as worker in the said business and he could not establish his right,

title and interest over the property. The plaintiff has clearly deposed that the suit room is required for her own use and occupation along with her family members. The appellant could not offer any explanation as to why the trade licence was not obtained in her name when she is the owner of the property.

The findings of the trial court with regard to the reasonable requirement is based on the various documents exhibited by the plaintiff.

The concurrent findings of facts are not required to go through at this stage.

Under such circumstances, 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 along with CAN 10695 of 2016 and CAN 1514 of 2017.

There will be no order as to costs.

(Uday Kumar,J.)

(Soumen Sen, J.)

