

34 16.5.2023

Ct-08

SAT 435 of 2015

**Smt. Shushila Devi @ Shaw
Vs.
Smt. Tara Devi & Ors.**

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The minor defect reported by the stamp reporter is ignored.

The appellant are not represented.

The appeal appeared in the warning list on 6th March, 2023 with a clear indication that the same shall be transferred to the regular list on 21st March, 2023, since then the matter is appearing in the list. The appellant is having deemed notice of the matter.

The appellate judgment and decree dated 30th April, 2015 affirming the judgment and decree passed by the trial court on 4th June, 2013 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 plaintiffs filed the suit under Section 6 of the Specific Relief Act as the plaintiffs were dispossessed after possession was delivered to them in the Title Execution Case by the defendant. It was not in dispute that the plaintiffs got possession over the suit property through court bailiff on 4th August, 2008 and on 6th August, 2008 the defendant accompanied by other persons dispossessed the plaintiffs from the suit property for which the said suit was filed. The plaintiffs, having proved the possession, although dispossessed by the defendant, were entitled to decree.

In view thereof, the judgment and decree passed by the trial court as well as the first appellate court 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.)