

**ASR 7.
27.2.2023**

**SAT 235 of 2022
With
CAN 1 of 2022**

**Dilip Paul & Anr.
Vs.
Subhra Rani Paul & Ors.**

**Mr. Sabyasachi Mukherjee
Mr. Bibek Dey
Mr. Debarati Chowdhury
.....For the appellants**

**Mrs. Sohini Chakraborty
Mr. Ranjit Talukdar
..... For the respondents**

The ground on which the learned first appellate court has decreed the eviction of the appellants is default in the payment of rent.

In this intended second appeal learned counsel for the appellants tried to urge that the learned first appellate court had fallen into error in determining this default. According to him his client has paid rent which has not been accounted for.

A second appeal can only be admitted on a substantial question of law. We find that only questions of fact have been sought to be raised in this proposed appeal. No question of law far less any substantial question of law is involved.

In those circumstances, we are not minded to admit this appeal.

However, considering the vigour with which learned counsel for the appellants tried to convince the court, the financial condition of the appellants, this long occupation of the said premises and the time requirement for finding an alternative accommodation, we grant the appellants time upto 30th September, 2023 to vacate the suit premises.

Under the order dated 23rd September, 2016, they were required to pay occupation charges at the rate of Rs. 4000/ per month. From March, 2023 till the date of handing over possession of the said premises to the respondents they shall pay occupation charges at the rate of Rs. 5,500/- per month to the respondents by the 7th of each month in advance. Till 30th September, 2023 the respondents shall not execute the impugned decree. However, if there is any default in payment of occupation charges the respondents shall be at liberty to execute the decree forthwith.

If the appellants do not vacate the premises by 30th September, 2023, the respondents shall have liberty to execute the impugned decree forthwith and also to initiate proceeding in the contempt jurisdiction of this court.

The appeal and the connected application are disposed of.

(I. P. Mukerji,J.)

(Biswaroop Chowdhury,J)