

10.01.2023
SL No.26
Court No.8
(gc)

SAT 511 of 2014
CAN 1 of 2018 (Old No: CAN 99 of 2018)
(not in file)

Sambhu Nath Pal
Vs.
Badal Chandra Pal (Died)
Represented by Mohan Chandra Pal & Ors.

This matter appeared in the Warning List of 29th November, 2022 with a clear indication that this matter shall be transferred to the Regular List on 5th December, 2022. Since then the matter is appearing in the list. The appellants have due notice of the matter. The appellants are not represented. The appeal is defective.

The Section Officer in its report dated 05/01/2023 has stated that the defects pointed by the Stamp Reporter in its report dated 01/12/2014 have not been removed. In spite of having due notice of the matter, the appellant is not represented.

Ignoring the defects, we propose to take up this matter for consideration whether it involves any substantial questions of law. The appellate judgment and decree dated 20.09.2014 affirmed the judgment and decree dated 31.03.2012 in a suit for declaration of injunction and revocation of licence is a subject matter of challenge in this second appeal. The learned Trial Court decreed the suit on contest by declaring that the plaintiffs

and proforma defendants are the owners of the suit property and the defendant No.1 was the licensee till 1997. In arriving at the said conclusion, the Trial Court has taken into consideration the evidence of the parties and documentary evidence, namely, Exhibit-3 and Exhibit-4 wherefrom the said licence was established. Even in L.R.R.O.R., Exhibit-C series, the name of the defendant No.1 was shown as permissive possessor. On such consideration, the suit was decreed. The First Appellate Court on re-appreciation of the evidence and reconsideration of the aforesaid Exhibits returned a finding in favour of the plaintiffs and dismissed the appeal.

The concurrent findings of facts based on oral and documentary evidence are not likely to be interfered with in the second appeal.

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

In view of dismissal of the second appeal, the connected application also stands dismissed.

(Uday Kumar, J.)

(Soumen Sen, J.)