

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble **Justice Harish Tandon**

And

The Hon'ble **Justice Prasenjit Biswas**

**SAT 70 of 2024
With
CAN 1 of 2024**

**Prasanta Kumar Roy
-Versus-
Sunil Kumar Chajjer**

For the Appellant : **Mr. Tanmay Chowdhury,
Ms. Ritoprita Chosh.**

For the Respondent : **Mr. Gautam Das,
Mr. Dipankar Bose.**

Delivered on : **23.12.2024**

Prasenjit Biswas, J:-

1. Both the Courts have decided the case against this appellant/defendant.
2. The suit property in connection with the case pertains to a shop room which is situated in Sainthia Municipality under Mouza Sainthia, District Birbhum and the plaintiff/respondent is the owner of the same which he inherited from his predecessor-in-interest as ancestral property. It is stated by the plaintiff that the ancestral property was partitioned amongst the co-sharers and the suit shop room fell to his portion. This appellant/defendant was inducted as a licensee in respect of the suit shop room under the plaintiff for a term of 10 years and a registered license agreement was executed on 16.02.2004 in between them. Conditions were stipulated in the said license agreement wherein license fee was fixed at Rs. 450/- per month initially which was subsequently enhanced to Rs. 540/- per month. The another condition was that the said license agreement would be terminated at the end of December, 2013. After expiring of the said period, the license agreement was terminated but the defendant/appellant did not quit and vacate the said shop room. A notice was issued to the defendant/appellant on 24.01.2014 but there were some typographical mistakes in the said notice and as such it was waived by the plaintiff. Subsequently another notice to quit was served upon the defendant/appellant by registered post with acknowledgment due card and the same was duly received by this appellant. Despite receiving the notice and also after termination of lease agreement, this appellant/defendant who was

inducted as a licensee in the suit shop room did not vacate it. Finding no other way the suit was instituted at the behest of the plaintiff/respondent with a prayer for evicting this defendant from the suit property.

3. The suit instituted by the plaintiff before the Trial Court was contested by this appellant/defendant. The appellant/defendant took plea that he was inducted in the suit premises as a tenant under the plaintiff/respondent and he gave Rs. 9,000/- to the plaintiff as security deposit. Moreover, rent was deposited during pendency of suit. Another point which was taken by this appellant as a defendant that the suit property has not yet been partitioned between the co-sharers. The learned Trial Court decreed the suit filed by the plaintiff and direction was given upon this appellant/defendant to quit, vacate and deliver khas possession of the suit shop room in favour of the plaintiff within the time as indicated in the said judgment. Being aggrieved and dissatisfied with the said judgment and order passed by the Trial Court the defendant as appellant preferred the first appeal in which defendant took the same stand point as he had taken before the Trial Court. The First Appellate Court was dismissed the appeal by affirming the judgment passed by the learned Trial Court.

4. The license agreement which was executed by the plaintiff/respondent was marked Exhibit before the Trial Court from which it discerns that the plaintiff/respondent inducted the suit premises to the defendant/appellant as a licensee for a term of 10 years from the date of execution of the said agreement dated 16.02.2004. The said agreement was terminated at the end of

December, 2013. It further appears from the said agreement that the suit shop room was given to the appellant/defendant as licensee for specified period commencing from the month of January 2004 till the month of December 2013. As such after expiration of the aforesaid period the license agreement in between the plaintiff/respondent and the defendant/appellant has been automatically cancelled. It appears from the license agreement that the plaintiff/respondent can evict the defendant/appellant from the suit shop room without any notice after expiry of tenure of license. Notice to evict upon the defendant appellant was duly served and the same was proved and marked as Exhibit before the Trial Court.

5. The another contention of the defendant/appellant is that the suit property was never partitioned amongst the co-sharers but at the time of evidence taking process in cross examination this appellant/defendant admitted the right, title and interest of the plaintiff/respondent in the suit premises. The partition deed by which this plaintiff/respondent became owner is also marked as Exhibit in the case.

6. So, there is no scintilla of doubt that this appellant defendant was inducted in the suit premises as licensee by the plaintiff/respondent and after expiration of the period of license he has no right to stay in any capacity in the suit shop room.

7. We, thus, do not find any merit in the instant appeal nor any involvement of substantial question of law. Accordingly, the appeal is dismissed.

8. There shall, however, be no order as to costs.
9. Urgent Photostat certified copy of this order, if applied for, be given to the parties on payment of requisite fees.

I agree.

(Harish Tandon, J.)

(Prasenjit Biswas, J.)