

24.01.2024

Court : 04
Item : 06
Matter : SAT
Status : DISMISSED
Bench ID : 266176
Transcriber : NANDY

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

**SAT 90 of 2022
with
CAN 1 of 2023**

Sudip Bera & Anr.
Vs.
Atin Goswami

**Mr. Partha Pratim Roy, Advocate
Mr. Dyutiman Banerjee, Advocate**

.....for the Appellants

1. Though the Stamp Reporter has pointed out that the certified copy of the judgment and decree is not put in but we invited the Counsel for the appellant to address on merit of the instant appeal in order to ascertain whether it involves any substantial question of law.
2. The suit for eviction of a tenant on the ground of reasonable requirement is decreed by the Trial Court and such decree is affirmed by the First Appellate Court. Both the Courts held that the plaintiff/respondent reasonably required the suit premises for his own use and occupation and for the occupation of his family members, which is sought to be challenged in the instant appeal solely on the ground that the plaintiff/respondent is in possession of two shop rooms on the rear side of the suit premises and, therefore, such requirement is fanciful.
3. It appears that there are three shop rooms in the premises situated in the ground floor thereof and the plaintiff/respondent is in possession of two

shop rooms at the rear side of the premises. The plaintiff requires the suit premises to augment the income as the tenanted portion of the suit premises is situated at a place which is accessible to public and the nature of the business which the plaintiff/respondent intend to establish requires more accessibility to the intending customers which is not possible from the rear side of the house.

4. The plaintiff is the landlord as well as the owner of the suit premises and, therefore, the tenant cannot dictate the landlord to squeeze his requirement from the available accommodation provided such accommodation is not reasonably suitable. The requirement is founded upon establishment of a business at the suit premises and the nature of the business appears to be a shop which provides photocopies to the customer. Obviously, the nature of such business requires accessibility to the customers as well as passersby. The law does not put any fetter in denying the landlord to evict the tenant on the ground of reasonable requirement if such requirement appears to be genuine as opposed to a fanciful desire. The landlord is the best Judge of his requirement and if the Court finds such requirement is reasonable and *bona fide*, interference with the concurrent findings of facts is unwarranted.
5. Both the Courts have found that the plaintiff/respondent reasonably required the suit premises and is not in possession of reasonable suitable

accommodation. Such being the concurrent findings of fact, we do not think that it involves any substantial question of law.

6. The appeal being **SAT 90 of 2022** is **dismissed** under Order XLI Rule 11 of the Code of Civil Procedure as it does not involve any substantial question of law. The connected application being **CAN 1 of 2023** is, accordingly, **dismissed**.

(Harish Tandon, J.)

(Madhuresh Prasad, J.)