

Form No.J(2)

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
Appellate Side

Present : The Hon'ble Mr. Justice Sabyasachi Bhattacharyya
&
The Hon'ble Mr. Justice Uday Kumar

FA No. 75 of 2022

Smt. Rooplekha Roy
-vs-
Nava Nalanda Primary School and another

For the appellant : Mr. Aniruddha Mitra,
Mr. T. K. Sen,
Mr. Aditya Chakraborty,
Mr. Anirban Ghosh

For the respondents : Mr. Aniruddha Chatterjee,
Mr. Uddipan Banerjee.

Heard on : November 6, 2024.

Judgment on : November 6, 2024.

Sabyasachi Bhattacharyya, J.:

1. The present challenge is on an extremely brief point.
2. Learned counsel for the appellant submits that despite having obtained a decree in terms of the reliefs sought in the plaint in

a suit, *inter alia*, for eviction, the impugned decree does not carry any direction to the defendants/respondents to hand over peaceful and vacant possession of the suit premises in favour of the plaintiff, thus necessitating the present appeal.

3. At the outset, learned counsel for the defendants/respondents, on instruction, submits that the defendant no. 1-School has left the premises long back and, in fact, the plaintiff is in occupation of the property.
4. In view of such stand being taken by the defendants/respondents, no further hearing is required in the appeal.
5. Since the defendants/respondents categorically admit that they have handed over possession and the plaintiff is now in occupation of the property, it is deemed that the plaintiff, even without any rider in the impugned decree to the effect that peaceful possession be handed over to the plaintiff, is in possession of the property.
6. Accordingly, FA No. 75 of 2022 is disposed of in the light of the above observations, on the finding that the plaintiff is in actual possession of the property and the decree has been satisfied to that extent.

7. It is made clear that in view of the above stand taken by the defendants, this Court does not interfere with the impugned judgment and decree and it will be open to the plaintiff to execute the monetary component of the same in due process of law, if otherwise entitled.
8. Formal decree be drawn up accordingly.

I agree.

(Uday Kumar, J.)

(Sabyasachi Bhattacharyya, J.)