

19.07.2024.
Item No. 2.
Court No. 13
ap

F.A. No. 303 of 2016
With
I.A. No. CAN 1 of 2016 (Old CAN 7248 of 2016)
And
I.A. No. CAN 2 of 2016 (Old CAN 11380 of 2016)

Dinesh Kumar Sonkar
Versus
Manju Dutta & Ors.

Mr. Aniruddha Chatterjee,
Mr. Abir Lal Chakraborty.

...For the appellant.

1. The second appeal is directed against the judgment and order dated 6th May, 2016 passed by the learned 3rd Bench of the City Civil Court at Calcutta in Title Appeal No. 20 of 2014 (Dinesh Kumar Sonkar – Vs. – Manju Dutta & Ors.).
2. The appeal being Title Appeal No. 20 of 2014 itself was directed against the judgment and order dated 31st January, 2014 passed in Ejectment Suit No. 1674 of 2000 passed by the learned Judge, 5th Bench, Presidency Small Causes Court at Calcutta.
3. The appellant was the defendant/tenant in the suit. The respondents Manju Dutta and others filed a suit for eviction of the appellant on threefold grounds – (a) Reasonable requirement, (b) Default in payment of rent and (c) Additions and Alterations made by the appellant to the suit premises.
4. The first Court found on the basis of the report of the Commissioner and the evidence that has come on

record that there was no addition and alteration committed by the appellant to the suit premises. The lower appellate court has affirmed the same.

5. On the question of default in payment of rent, the first court found that the appellant was a defaulter since he had not paid the arrears rent for six months i.e. from January 1985 to April 1985 and December 1986 to May 1987.

6. There was already an adjudication by the first court under Section 17(2) of the West Bengal Premises Tenancy Act, 1956. The lower appellate court, however, was of the view that the finding of the first court with regard to the appellant being a defaulter for payment of rent was incorrect.

7. This Court finds the reasoning given by the lower appellate court in this regard, sound and appropriate.

8. The appellant is, however, aggrieved and seeks admission of the second appeal on the ground that the lower appellate court and the first court have concurrently found that the respondents/plaintiffs have established reasonable requirement of the suit premises under Section 13 of the Act of 1956.

9. It appears in no uncertain terms that the suit premises comprised of one room and a small puja room. The concurrent finding of the two courts below is that the plaintiff/respondents ordinarily residing in Midnapore and came to Calcutta nearly everyday but

could not stay in the city even for a night for want of accommodation.

10. The discussions and reference to the decisions of the Hon'ble Supreme Court of India and this Court by the lower appellate court is sound. Indeed it is settled law that it is not for a Court or a tenant to decide as to the standard of living of a landlord.

11. The suit premises clearly appears to be no lavish palatial accommodation. The Commissioner's report relied upon by the first Court and affirmed by the second first lend credence to the extent of the premises. The finding of reasonable requirement of the two courts below is sustainable in law and fact.

12. In view of the above, the argument advanced by Mr. Abir Lal Chakraborty led by Mr. Aniruddha Chatterjee, learned Counsel for the appellant, that the suit premises remains undefined and unascertained by reference to a paragraph in the written statement, cannot be accepted.

13. The report of the Commissioner appointed by the first court is an Exhibit in the Court below. The said report has not been challenged by the appellant in the courts below. The issue has not even been urged effectively in the court below.

14. For the reasons stated hereinabove, this Court does not find any substantial question of law to admit the instant second appeal. Hence, SAT 303 of 2016 shall stand dismissed.

15. In view of the dismissal of SAT 303 of 2016, all connected applications are dismissed. The Registry shall communicate a copy of this order to the courts below. L.C.R., if any, be returned to the Court below.

16. There will be no order as to costs.

17. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Ajay Kumar Gupta, J.)