

D/L.18.
July 14, 2025.
MNS.

SAT No. 3 of 2025
+
CAN 1 of 2025

Pritika @ Pritikana Biswas and another
Vs.
Avijit Biswas and others

Mr. Partha Pratim Roy

... for the appellants.

1. On the prayer of learned counsel for the appellants, the appellants are permitted to deposit the deficit court-fees during the course of the day.
2. The Office shall furnish a revised report in that regard thereafter.
3. The matter is now taken up for hearing Order XLI Rule 11 of the Code of Civil Procedure.
4. The present appeal arises against a judgment of affirmance whereby an eviction suit under Section 106 of the Transfer of Property Act, 1882 (in short "1882 Act") filed by the plaintiffs/respondents nos. 1 and 2 was decreed by both the courts below.
5. Learned counsel appearing for the defendants/appellants submits that there were three quit notices, purportedly under Section 106 of the 1882 Act, issued by the plaintiffs/respondent nos. 1 and 2 against the defendants/appellants.
6. The first was dated September 6, 2011 and the second of November 9, 2011. The suit was filed on

the strength of the third notice dated November 11, 2011.

7. Learned counsel for the appellants argues that the third notice, on the basis of which the suit was filed, was bad in law, having been issued within the stipulated period of fifteen days from the issuance of the second notice dated November 9, 2011, which was available to the defendants to vacate the premises.

8. However, such plea is specious. It is trite law that by virtue of issuance of a subsequent (here, the third) notice, the prior notices are deemed to have been waived. As such, nothing hinges upon whether the periods given by the first or second notice were infringed at the time of issuance of the third notice. Since the basis and the cause of action of the suit was the third notice dated November 11, 2011, and there is no question raised as to the suit having been filed prior to the expiry of the statutory period after the said notice, the ground sought to be urged cannot be accepted, being not tenable in the eye of law.

9. Accordingly, SAT No. 3 of 2025 is dismissed under Order XLI Rule 11 of the Code of Civil Procedure.

10. Consequentially, CAN 1 of 2025 is also dismissed.

11. There will be no order as to costs.

(Uday Kumar, J.)

(Sabyasachi Bhattacharyya, J.)