

AD-41&42
Ct No.16
28.04.2025
TN

SAT 41 of 2020
IA No: CAN 1 of 2021
with
SA 59 of 2023
IA No: CAN 1 of 2020
(Old No: CAN 1333 of 2020)

M/s Ganga Jewellers, a proprietorship firm represented by its
proprietors namely, Sri Arup Roy and others

Vs.

Sri Samarendra Nath Saha, since deceased, his legal heirs,
Sri Gopal Saha and others

Mr. Asit Baran Routh,
Mr. Abhisek Seal,
Mr. Arindam Paul

....for the appellants

Ms. Sabita Mukherjee Roy Choudhury,
Ms. Sneha Singh,
Ms. Sukriti Sengupta

...for the respondents

Re: SA 59 of 2023

1. The present second appeal has been preferred against a judgment of reversal. The title suit of the respondents for eviction of the appellants was dismissed by the trial court, which decision was reversed by the first appellate court. However, while doing so, the first appellate court, in its decree, erroneously mentioned different premises than the suit premises, which prompted the respondents to take out an application under Sections 151 and 152 of the Code of Civil Procedure for rectification of the first appellate court's decree.

2. The same being rejected, a revision was preferred before this court and a learned Single Judge remanded the matter by directing the conversion of the application under Sections 151 and 152 into an application for review. The review application was subsequently allowed, thereby rectifying the first appellate court's decree, this time mentioning the suit property to be the property as mentioned in the schedule of the plaint.
3. SA 59 of 2023 has been filed against the first appellate court's decree as it stood originally, prior to review. However, due to subsequent modification of the said decree by way of review, the present appeal has been rendered infructuous, as a different second appeal has already been preferred by the appellants against the modified first appellate court's decree.
4. Accordingly, SA 59 of 2023 is disposed of as infructuous. IA No: CAN 1 of 2020 (Old No: CAN 1333 of 2020) is also disposed of accordingly.
5. There will be no order as to costs.

Re: SAT 41 of 2020

6. In the light of the above observations, we take up SAT 41 of 2020 for hearing under Order XLI Rule 11 of the Code of Civil Procedure.
7. Due to paucity of time, such hearing cannot be concluded today.

8. For further hearing under Order XLI Rule 11 of the Code of Civil Procedure, let the matter be posted in the list tomorrow (29.04.2025) under the same heading.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)