

AD- 27
Ct No.16
08.04.2025
(SSS)

SAT 60 of 2025
with
CAN 1 of 2025

Joydeb Kayal and Ors.
Vs.
Probir Kumar Pal alias
Prabir Kumar Pal and Ors.

Mr. Dilip Kumar Maity,
Mr. Sanjoy Saha
....For the Appellants.

Mr. S. S. Arefin,
Ms. Farida Khatun
...For the Respondent No.1.

1. Affidavit of service filed today be kept on record.
2. The present second appeal has been preferred against a judgment of affirmance.
3. The plaintiffs/appellants filed the suit for peculiarly contradictory reliefs. In the same breath, in the first relief in the plaint, the original plaintiff/appellant sought a declaration of title on the basis of a title deed as well as adverse possession, alternatively recovery of possession from the defendant in the event the plaintiff was found not to be in possession.
4. Such prayers are *ex facie* contradictory and mutually exclusive.

5. The appellate court categorically held that the plaintiffs were not sure as to whether they were claiming title on the basis of title deed or adverse possession. Also, both the courts below arrived at a finding that whereas the plaintiffs/appellants failed to prove possession in respect of the suit pond, the defendants produced rent receipts and other documents, which were exhibited in the suit, to show the possession and payment of rent by the defendants in respect of the suit pond all along.

6. Upon a careful perusal of the judgments and decrees of both the courts below, we are of the opinion that there is no scope of interference with such concurrent findings of fact arrived at by the courts below, nor was there any error, either factual or legal, on the part of the courts below while coming to such conclusions. Hence, since no substantial question of law is involved, SAT 60 of 2025 is dismissed under Order XLI Rule 11 of the Code of Civil Procedure.

7. Consequentially, CAN 1 of 2025 stands dismissed as well. No order as to costs.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)