

Item-
19.

18-08-2025

sg

Ct. 16

SAT 79 of 2025

CAN 1 of 2025

Amar Shit @ Amar Kumar Shit
Versus
Rabindranath Das Gupta @ Rabin Dasgupta

Mr. Sounak Bhattacharya
Mr. Sounak Mondal
Mr. Abhirup Halder

...for the appellant

1. The appeal is directed against a judgment and decree dated 8th January, 2025 passed by the learned Additional District Judge, 1st Court, Howrah affirming the judgment and decree dated 26th February, 2020 passed by the learned Civil Judge (Junior Division), 7th Court, Howrah in a suit for eviction.
2. During the admission of the appeal it is urged that the original plaintiff has lost his right in the property in question as the said land has vested in the State under Section 3A of the West Bengal Land Reforms Act and Section 6 of the West Bengal Estate Acquisition Act.
3. At the first instance, we must point out that this was the plea taken at any stage of the earlier proceeding. The tenancy as it appears commenced from 1978 and the main plea of the defendant appears to be shortness of notice under Section 106 of the Transfer of Property Act, 1882 and that the plaintiff is not the sole owner of the suit property. However, both the learned Trial Courts have taken into consideration the pleadings between the parties

and have arrived at a finding that the tenancy was for manufacturing purpose was neither pleaded nor proved at the trial. It is also clear from the judgment that the maintainability of the suit was not questioned at any stage of the proceeding.

4. The learned First Appellate Court, in our opinion, has rightly relied upon the decision of the Privy Council in AIR 1930 Privy Council 57 wherein it was observed that no amount of evidence can be looked into upon the plea which is never put forward to discord the evidence of the respondent with regard to Exhibits C & D. The plea of ownership of the plaintiff raised before both the learned Trial Court as well First Appellate Court was considered in detail by both the learned Trial Courts and it seems that both the Courts have correctly held that the title cannot be conferred merely by reason of admission as it would appear from the Exhibit 1, namely, the registered deed of sale being no. 2482 in the year 1978 and number 1864 in the year 1979 (Exhibit 2) and the and plot information slips (Exhibit 3) that the plaintiff was able to establish ownership over the suit property. The defendant during his cross-examination has also admitted that the plaintiff is the owner as well as the landlord in respect of the suit property.
5. In view of the aforesaid, we do not find any reason to admit the appeal as the appeal does not involve any substantial question of law.

6. The appeal and the application stand dismissed.

(Soumen Sen, J.)

(Apurba Sinha Ray, J.)