

AD-17
Ct No.16
05.02.2025
TN

SA 57 of 2024
IA No: CAN 1 of 2024
M/s A. Mallick & Sons a partnership firm
and others
Vs.
Sri Mukesh Chandrakant Gandhi and others

Mr. Krishna Das Poddar,
Mr. Surajit Maity,
Ms. Rubina Akhtar,
Ms. Mandira Barman

....for the appellants

1. The present second appeal has been preferred against a judgment of affirmance of a decree of eviction against the defendants/appellants on the ground of reasonable requirement.
2. Learned counsel for the appellants argues that before the Appellate Court, an application under Order XLI Rule 27 of the Code of Civil Procedure was filed and was allowed, pursuant to which evidence was adduced by calling for the Kolkata Municipal Corporation Officers who proved documents to indicate that certain licences were issued after the filing of the suit in favour of certain tenants who were inducted during pendency of the suit in the suit property by the plaintiffs/landlord/respondents.
3. Learned counsel further argues that from the concerned documents, which are extracts from the municipal records, it is clear that there have been subsequent induction of tenants to the suit property

by the plaintiffs, which belies the reasonableness of the purported requirement of the respondents.

4. As such, it is submitted that the appeal ought to be admitted on such ground.
5. We find from the judgment of the courts below, in particular the Appellate Court, that the learned Appellate Judge considered the report filed by the learned Commissioner, where it was recorded that the entire ground floor is tenanted. As per the judgment of the First Appellate Court, the Commissioner also mentioned the names of the tenants on the ground floor. The learned Appellate Judge further found that the plaintiffs are residing at the first floor of the suit premises and have a requirement for starting a business by the son of the plaintiff no.5, which was held to be reasonable by both the courts.
6. As per the findings of the learned Appellate Judge, it was admitted by the defendant that the plaintiffs have several businesses and also admitted that the son of the plaintiff no.5 can start his business from some other rooms in their possession in the said building.
7. We also find that the learned courts below proceeded on an absolutely correct legal footing in placing themselves in the armchair of the landlord while ascertaining the requirement of the landlords. We do

not find any irrationality in the courts having found the requirement of the business of the son of the plaintiff no.5 to be reasonable. Since, to commence such a business, the requirement has to be restricted to the ground floor where the suit room is situated, there is no illegality on such count as well.

8. Learned counsel for the appellants has handed over a bunch of documents, which, *inter alia*, contain the documents which were exhibited by Officers of the Kolkata Municipal Corporation. Although we find the name of several occupiers of the premises-in-question in whose name trade licences were issued, some of which were subsequent to the institution of the suit, we do not find anything from the said documents which were exhibited in the appellate court, that any of the inductions took place in respect of any of the ground floor rooms.
9. As such, we do not find any illegality in the judgments of either of the courts below, let alone the involvement of any substantial question of law.
10. Accordingly, SA 57 of 2024 is dismissed under Order XLI Rule 11 of the Code of Civil Procedure. Consequentially, CAN 1 of 2024 is also dismissed.
11. There will be no order as to costs.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)