

AD-44
Ct No.10
07.07.2025
TN

SAT 120 of 2025
IA No: CAN 1 of 2025

Mallick Auto Centre
Vs.
Rasheswar Mallick

Mr. R.P. Banerjee,
Mr. A.K. Ghosh,
Mr. Azizul Islam

....for the appellant

Mr. Haradhan Banerjee,
Mr. Partha Pratim Mukhopadhyay,
Mr. Suresh Kumar Sahoo

....for the respondent

1. Leave is granted to the learned Advocate for the appellant to carry out the necessary correction to the cause title of the memorandum of appeal insofar as the first name of the sole respondent is concerned. Such correction shall be carried out during the course of the day.
2. Learned counsel for the appellant submits that the certified copies of the judgment and decree of the trial court have since been filed on June 18, 2025.
3. Accordingly, the Office is directed to furnish a revised report in that regard.
4. The appeal is now taken up for hearing under Order XLI Rule 11 of the Code of Civil Procedure.
5. The present appeal has been preferred against a judgment of affirmance. Both the courts below have

granted an eviction decree against the appellant under the Transfer of Property Act, 1882.

6. Learned counsel for the appellant argues that there was no landlord-tenant relationship created between the plaintiff and the defendant. Although the plaintiff collected rent, the same was during the lifetime of his father, who was the admitted owner at the relevant of point of time. Furthermore, upon the demise of the plaintiff's father, it is argued that the plaintiff as well as his sister became co-owners of the property. Moreover, in the absence of any letter of attornment, the suit was not maintainable in its present form.
7. However, it is not the law that the subsequent owner, who acquired the property by virtue of inheritance or otherwise, cannot maintain a suit for eviction although the said subsequent owner did not originally induct the tenant.
8. Moreover, a letter of attornment is not a *sine qua non* for the purpose of maintaining a suit for eviction by the current owner against the lessee.
9. Thirdly, it is well-settled that a co-owner is an owner in equal rights and, as such, there is no bar in a co-owner maintaining a suit for eviction against a lessee, provided, of course, it is not proved by the defendant that the other co-owner categorically disagrees to the filing of such eviction suit. In the present case, no such case was even made out by the defendant/appellant to the effect that the alleged co-

owner of the property resisted filing of the eviction suit by the plaintiff.

10. Thus, we do not find any substantial question of law involved, nor do we intend to interfere unnecessarily with the concurrent findings of facts by both the Courts below.
11. Accordingly, SAT 120 of 2025 is dismissed under Order XLI Rule 11 of the Code of Civil Procedure.
12. CAN 1 of 2025 stands disposed of accordingly.
13. There will be no order as to costs.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)